S. Hrg. 99-264

ACADIA NATIONAL PARK AND THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 720

A BILL TO ESTABLISH A PERMANENT BOUNDARY FOR THE ACADIA NATIONAL PARK IN THE STATE OF MAINE, AND FOR OTHER PURPOSES

S. 1208

A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND LOCATED IN THE STATE OF MARYLAND TO THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JULY 12, 1985

Printed for the use of the
Committee on Energy and Natural Resources

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S311-6.

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James A. McClure and J. Bennett Johnston are Ex Officio Members of the Subcommittee
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S311-6

ACADIA NATIONAL PARK AND THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

FRIDAY, JULY 12, 1985

U.S. SENATE, SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:33 a.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Bradley, and Mitchell.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning, ladies and gentlemen, and colleagues.

This morning the Subcommittee on Public Lands, Reserved Water and Resource Conservation will hear testimony on S. 720, to establish a permanent boundary for the Acadia National Park in the State of Maine, and S. 1208, to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission. Without objection, I will place a copy of each of these bills in the hearing record.

The hearing record will remain open for 2 weeks after today, during which time written testimony on any of these measures can be submitted to the subcommittee.

I am pleased that a number of citizens from Maine and Mount Desert Island are present today. You have traveled far to be heard on this issue and the policy of the subcommittee is to allow anyone who wishes to testify on an issue to do so.

In order to accommodate everyone I'm going to ask the witnesses to limit their oral testimony to 5 minutes, please summarize your written statements. Your full statements will be in the record as if they had been delivered, and this is the timing device that we will use. If the noise doesn't work, I have a terrifically accurate arm and I can do it right from here. All testimony, oral and written, will be included in the record.

At this time let me welcome my colleagues from Maine, Senator Cohen and Senator Mitchell, who will make statements on the Acadia National Park bill.

Senator Cohen.

[The texts of S. 720 and S. 1208 follows:]

II

99TH CONGRESS
1ST SESSION

S. 720

To establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 20 (legislative day, FEBRUARY 18), 1985

Mr. MITCHELL (for himself and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish a permanent boundary for the Acadia National Park in the State of Maine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PERMANENT BOUNDARIES.

That in order to protect and conserve the land and water resources of Acadia National Park in the State of Maine, and to facilitate the administration of the park, there is hereby established a permanent boundary for Acadia National Park as depicted on the map entitled "Acadia National Park Boundary Map," numbered 123-80001H, and dated February 1985. The map shall be on file and available for public inspection in the offices of the Secretary of the Interior, the Superintendent, Acadia National Park, and the Registry of Deeds for Hancock and Knox Counties, Maine.

SEC. 2. ACQUISITION OF LANDS.

(a) AUTHORITY TO ACQUIRE; EXCHANGES.—

(1) AUTHORITY.—Within the boundary described in section 1 of this Act, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands and interests therein by donation, exchange, purchase from a willing seller, or by condemnation in accordance with subsection (d).

(2) EXCHANGES.—In exercising his authority to acquire property by exchange the Secretary may accept title to nonFederal property located within the boundary described in section 1 of this Act and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which lies outside said boundary and is depicted on the map described in section 1. Properties so exchanged shall be approximately equal in value, as determined by the Secretary, except, that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the, properties exchanged.

(3) LANDS NOT EXCHANGED.—Lands under the jurisdiction of the Secretary which lie outside said boundaries and are depicted on the map described in section 1 and which are not exchanged within five years after enactment of this Act, shall be conveyed to the towns in which they are located without encumbrance and without monetary consideration.

(b) CONVEYANCE OF LANDS TO TOWN OF BAR HARBOR.—Notwithstanding subsection (a) of this section, lands depicted on the map referred to in section 1 and identified as 10DBH and 11DBH known as the "Bar Harbor Sewage Treatment Plant", 14DBH known as the "New Park Street Ballfield", and 15DBH known as the "Former Park Headquarters", shall be conveyed by the Secretary, without encumbrance and without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the date of enactment of this Act.

(c) LANDS FOR SOLID WASTE TRANSFER STATION.—Notwithstanding subsection (a) of this section, lands depicted on the map referred to in section 1 and identified as 3DBH, known as Patty Lot Hill, shall be conveyed by the Secretary without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the date of enactment of this Act, subject to such terms and conditions, including appropriate reversionary provisions, as will in the judgment of the Secretary provide for the development and use of such property by any town which so desires as a solid waste transfer station in accordance with a plan that is satisfactory to the towns and the Secretary. The Secretary, notwithstanding any other provision of law, shall (subject to the availability of prior appropriations) contribute toward the cost of constructing such transfer station the lesser of—

(1) not to exceed $350,000, or

(2) 50 per centum of the cost of such construction.

(d) OWNER CONSENT.—

(1) OWNER CONSENT REQUIRED.—In exercising the acquisition authority contained in subsection (a) of this section, property may be acquired only with the consent of the owner, except as provided in paragraphs (2) and (3).

(2) CLEARING TITLE.—The Secretary is authorized to use eminent domain proceedings to clear title to lands within the park boundary and lands identified in section 5 of this Act that are being acquired from a willing seller.

(3) DEVELOPMENT OR CHANGES ON CERTAIN TRACTS.—On the tracts identified as 9AMD, 10AMD, 15AMD, 17AMD, 20AMD, 21aAMD, 21bAMD, 22 through 26AMD, 4 through 7AT, 13AT, 14AT, 4ASW, 7ASW, 13ASW, 15ASW, 24ASW, 43ABH,

58ABH, 1AG, 1ACI, and 2ACI, on the map described in section 1, the Secretary is authorized to use eminent domain proceedings to acquire any of such tracts or portions thereof if, after consultation with the Acadia National Park Advisory Commission established by section 6(a) of this Act and after written notice to the owner and opportunity to comment, he determines that they are undergoing or are about to undergo development or changes in use which are incompatible with the purposes for which the park is established.

(4) CERTAIN DEVELOPMENT NOT INCOMPATIBLE.—For purposes of paragraph (3) development shall not be considered incompatible with the purposes for which the park was established where such development is limited to—

(A) on unimproved property, construction of a single-family residence in accordance with applicable law,

(B) reconstruction of an existing building, where such building has been destroyed through an act of God or accidental fire or explosion,

(C) construction of accessory structures or additions to existing structures which are customarily incidental and clearly subordinate to the principal structure and which—

(i) do not exceed, in total or combined square footage, 50 per centum of the total or combined square footage of existing structures, or

(ii) do not cause the total square footage of all structures to exceed two thousand five hundred square feet, or

(D) construction of reasonable support facilities for buildings or structures qualifying under subparagraph (A), (B), or (C), such as roads, parking areas, water and sewage systems, and recreational facilities.

(5) CHANGES IN USE.—For purposes of paragraph (3) changes in use of any tract shall be considered incompatible with the purposes for which the park was established only if such changes in use involve—

(A) any division of the tract into smaller parcels except for parcels to be acquired by the Secretary, where such tract was not so divided as of November 1, 1984,

(B) nonresidential use of the property, where such use was not in existence as of November 1, 1984, or

(C) commercial use of the property where such use was not in existence as of November 1, 1984 other than commercial use of property listed on the National Register of Historic Places if the owner of such property obtains and complies with recommendations of the State Historic Preservation Officer regarding the preservation of historically significant features of such property.

(e) RESERVED RIGHTS.—

(1) RETENTION.—The owner of an improved property acquired by the Secretary under this Act, may, as a condition of its acquisition, retain for himself, his heirs and assigns, a right of use and occupancy of the improved property.

(2) DURATION.—Except as provided in paragraph (5), rights retained under this subsection shall terminate at the end of—

(A) a definite term of not more than twenty-five years from the date of acquisition, or

(B) a term ending at the death of the owner or the death of his spouse, whichever is later.

The owner shall elect the term to be reserved.

(3) PAYMENT.—Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(4) EARLY TERMINATION.—A right retained by the owner pursuant to this section shall be subject to termination by the Secretary if he determines after consultation with the Acadia National Park Advisory Commission established under section 6(a) of this Act, and after written notice to the owner and opportunity to comment, that it is being exercised in a manner inconsistent with the purposes of this Act. Such retained right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(5) EXISTING USES.—For purposes of paragraph (4) uses of any property acquired under this Act which were existing on or before January 1, 1985 shall not be treated as inconsistent with the purposes of this Act.

SEC. 3. CONSERVATION EASEMENTS ON ISLANDS.

(a) AUTHORITY TO ACQUIRE.—The Secretary may acquire conservation easements from a willing seller or by donation on parcels of land in the area encompassing the islands of Hancock County and the islands of Knox County east and south of the Penobscot Ship Channel, except such islands as lie within the town of Isle au Haut, Knox County. Parcels subject to conservation easements acquired or accepted by the Secretary under this section must possess one or more of the following characteristics:

(1) important scenic, ecological, historic, archeological, or cultural resources;

(2) shorefront property; or

(3) largely undeveloped entire islands.

(b) TERMS OF EASEMENTS.—

(1) SCENIC, ECOLOGICAL, ETC., VALUES.—Conservation easements covering parcels classified under paragraph (1) of subsection (a) shall protect the respective scenic, ecological, historic, archeological, or cultural resources existing on the parcels.

(2) SHOREFRONT PROPERTY.—Conservation easements covering parcels classified under paragraph (2) of subsection (a) shall preserve, through setback requirements or other appropriate restrictions, the open, natural, or traditional appearance of the shorefront when viewed from the water or from other public viewpoints.

(3) UNDEVELOPED ENTIRE ISLANDS.—Conservation easements covering parcels classified under paragraph (3) of subsection (a) shall limit year-round and seasonal residential and commercial development to activities consistent with the preservation of the islands'

natural qualities and to traditional resource-based land use including, but not limited to, fishing, farming, silviculture, and grazing.

(c) FACTORS CONSIDERED.—In determining whether to accept or acquire conservation easements, the Secretary shall consider the following factors:

(1) the resource protection benefits that would be provided by the conservation easement;

(2) the public benefit that would be provided by the conservation easement;

(3) the significance of the easement in relation to the land planning objectives of local government and regional and State agencies;

(4) the economic impact of the conservation easement on local livelihoods, activities, and government revenues; and

(5) the proximity of the subject parcel to the fee boundaries of Acadia National Park and to other parcels on which Acadia National Park maintains conservation easements.

(d) DEFINITION.—For purposes of this section, the term "conservation easement" means a less-than-fee interest in land or a conservation restriction as defined in section 667 of title 33 of the Maine Revised Statutes of 1964, as in effect on the date of the enactment of this Act.

(e) PRECONDITION OF ACQUISITION.—No easement may be acquired by the Secretary under this section without first consulting with, and providing written justification to, the town in which the land is located and the Acadia National Park Advisory Commission established by section 6(a) of this Act.

SEC. 4. PROHIBITION ON FEE ACQUISITION OF ISLANDS.

Except as specifically provided by this Act, the Secretary shall not have authority to acquire islands or portions of islands in fee other than the following eleven islands: Schoodic Island, Egg Rock, and Rolling Island, in the town of Winter Harbor, Bar Island, in the town of Gouldsboro; Baker Island and Federal property on Bear Island in the town of Cranberry Isles; Green Islands and Drum Island, in the town of Frenchboro; and Ship Island and Trumpet Island, in the town of Tremont; and after a unanimous vote by the Acadia National Park Advisory Commission established by section 6(a) of this Act, one additional island for the purposes of backpack primitive camping. Once acquired, such additional island shall become part of Acadia National Park and the boundary of said park shall be revised effective upon publication in the Federal Register to reflect such addition.

SEC. 5. LANDS EXCLUDED FROM PARK.

(a) SCHOONER HEAD AND HIGH SEAS.—Lands depicted on the map and identified as 50 through 54ABH, 53aABH, and 60 through 62ABH, locally known as "Schooner Head", and 55ABH, locally known as "High Seas", are specifically excluded from the boundaries of Acadia National Park.

(b) DONATION OR PURCHASE WITH OWNER CONSENT.—The lands referred to in subsection (a) may be acquired by the Secretary by donation or purchase from a willing seller. Once acquired, such lands shall become part of Acadia National Park and the boundary of said park shall be revised (effective upon publication in the Federal Register) to reflect such addition.

(c) CONSERVATION EASEMENT.—The Secretary is authorized to condemn a conservation easement by eminent domain on the lands referred to in subsection (a) if, after consultation with Acadia National Park Advisory Commission established under section 6(a) of this Act, and after written notice to the owner and opportunity for comment, he determines it is necessary to prevent development or changes in use which are incompatible with the purposes for which the park is established, as determined under section 2(d) of this Act.

SEC. 6. ACADIA NATIONAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an Acadia National Park Advisory Commission. The Commission shall be composed of sixteen members appointed as follows:

(1) three members to be appointed by the Governor of the State;

(2) three members to be appointed by the Secretary;

(3) four members, one to be appointed by each of the four towns on the island of Mount Desert;

(4) three members, one to be appointed by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton; and

(5) three members, one to be appointed by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

(b) STAGGERED TERMS.—The terms of the members appointed under subsection (a) shall be three years except that, for initial appointments under each paragraph, one member shall serve for a term of one year, and one member shall serve for a term of two years.

(c) CHAIRMAN; BYLAWS; VACANCIES.—The Commission shall elect its own chairman and form its own bylaws. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) COMPENSATION AND EXPENSES.—Members of the Commission shall serve without compensation as such. The

Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act.

(e) CONSULTATION.—

(1) DEVELOPMENT AND OPERATION.—The Secretary shall consult with the Commission with respect to matters relating to the development and operation of Acadia National Park.

(2) LAND ACQUISITION.—The Secretary shall consult with the Commission with respect to matters relative to land acquisition, including the use of eminent domain as provided in this Act.

(3) CONSERVATION EASEMENTS.—The Secretary shall consult with the Commission with respect to conservation easements as provided in this Act.

(4) PAYMENTS.—The Secretary shall consult with the Commission with respect to payments as provided by section 7 of this Act.

SEC. 7. GRANTS TO TOWNS.

(a) SHARE OF EACH TOWN.—The Secretary shall make a grant under this section to each of the towns of Bar Harbor, Gouldsboro, Mount Desert, Southwest Harbor, Tremont, Trenton, and Winter Harbor for disbursement as the governing body of each such town may direct. The amount granted to each such town shall be an amount which bears the same ratio to $2,000,000 as the amount of land in Acadia National Park owned in fee simple by the United States within the town concerned bears to the total amount of such land owned in fee simple within all seven towns. For purposes of such grant ownership of land by the United States shall be determined by the Secretary as of the date of enactment of this Act.

(b) USE OF GRANT.—Grants made pursuant to this section shall only be used by each town for fire protection, police protection, solid waste management, and road maintenance and improvement.

(c) SOURCE OF FUNDS.—Payments pursuant to this section may be made only from funds appropriated therefor under this subsection. Such payments shall be in addition to and not in place of any other funds or form of Federal assistance to which the payee is entitled.

SEC. 8. FEDERAL PROPERTY ON BEAR ISLAND.

(a) TRANSFER.—Federal property on Bear Island in the town of Cranberry Isle, shall, with the concurrence of the head of the administering agency, be transferred without monetary consideration to the administrative jurisdiction of the Secretary for purposes of the Acadia National Park. Such Federal property shall not be developed by the Secretary in a way which would provide for or encourage intensive visitor use.

(b) IMPROVEMENTS.—The Secretary shall make improvements to the Federal property on Bear Island as may be required to ensure the protection of adjacent private property.

SEC. 9. REPORT ON TRANSPORTATION CAPACITIES.

The Secretary shall prepare a report establishing transportation capacities for Acadia National Park. The report shall be prepared with public participation and in consultation with the towns affected by the park and other interested parties.

SEC. 10. COMPLIANCE WITH BUDGET ACT.

Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1985.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) WASTE TRANSFER STATION.—Effective October 1, 1985, there are authorized to be appropriated for the purposes of section 2(c) of this Act, not to exceed $350,000.

(b) GRANTS TO TOWNS.—Effective October 1, 1985, there are authorized to be appropriated for the purposes of section 7 of this Act, not to exceed $2,000,000.

(c) LAND ACQUISITION BY SECRETARY.—Effective October 1, 1985, there are authorized to be appropriated to the

Secretary for the purposes of acquiring land within the boundary of the map described in section 1 of this Act, such sums as may be necessary.

(d) IMPROVEMENTS ON BEAR ISLAND.—Effective October 1, 1985, there are authorized to be appropriated for the purposes of making improvements authorized in section 8(b) such sums as may be necessary.

○

II

99TH CONGRESS
1ST SESSION

S. 1208

To authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, APRIL 15), 1985

Mr. MATHIAS (for himself and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) notwithstanding any other provision of law, the Secretary of the Interior is authorized to convey, without consideration, to the Maryland-National Capital Park and Planning Commission all right, title, and interest of the United States to a parcel of land comprising approximately fifty-five acres located in Prince George's County, Maryland.

(2) Except as provided in subsection (b), the land conveyed pursuant to paragraph (1) shall be used solely for park and waterfront recreation purposes in accordance with a land use plan for the property prepared by the Maryland-National Capital Park and Planning Commission and submitted to the National Capital Planning Commission for review and comment.

(3) As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the area designated under paragraph (1) with the Committee on Interior and Insular Affairs, United States House of Representatives, and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act, except that the correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file in the office of the regional director, National Park Service and the National Capital Park Region.

(b)(1) Subject to the provisions of paragraphs (2) and (3), the Maryland-National Capital Park and Planning Commission may grant access across the real property conveyed pursuant to subsection (a) to the owner of real property adjacent to such real property.

(2) The grant of access authorized by paragraph (1) shall be contingent upon—

(A) the submission by the owner of real property seeking such access of a land use and development plan, incorporating the provisions of the Memorandum of Understanding entered into between the owner of the adjacent property and the National Capital Planning Commission on May 7, 1985, to the National Capital Planning Commission for review and comment;

(B) the approval of the land use and development plan by the Prince George's County Council; and

(C) compliance by the owner of real property seeking such access with the terms and conditions of the Memorandum of Understanding of May 7, 1985 referred to in clause (A).

(3) The National Capital Planning Commission and the Maryland National Capital Park and Planning Commission shall make a copy of the Memorandum of Understanding of May 7, 1985 referred to in paragraph (2)(A) available for public inspection in the offices of each commission during business hours.

(c) The instrument of conveyance for the real property conveyed pursuant to subsection (a) shall set forth all terms and conditions on the conveyance and the grant of access provided in this Act.

(d) The National Capital Planning Commission, the Maryland National Capital Park and Planning Commission, the Prince Georges County Executive, or any other aggrieved person may bring an action in the appropriate United States District Court or in any Maryland State court of competent jurisdiction to require compliance by any party to the Memorandum of Understanding referred to in subsection (b)(2)(C) with the terms and conditions of such Memorandum. The court may issue any injunction, or grant such other relief, as may be appropriate.

○

STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM THE STATE OF MAINE

Senator COHEN. Thank you very much, Mr. Chairman. First let me express my deep appreciation, I know that Senator Mitchell shares that deep appreciation to you, for agreeing to hold this hearing. We had hoped that you might be able to come to Mount Desert Island to actually see the spectacular beauty of the island and its surrounding environment, but barring that we are most appreciative that you would even agree to hold a hearing here today, and perhaps Senator Mitchell has indicated he will somehow manage to waft you up to Maine during the latter part of August, perhaps.

Senator WALLOP. The year is not yet over.

Senator COHEN. But as you are aware, this problem is hardly a new one. We've never quite reached the point where legislation was ready to be discussed and debated by Congress, and I think this scheduling of this hearing is a very crucial first step in what I hope will be a rather speedy and smooth legislative journey for this important legislation.

This is a compromise in the best sense of the word in that no one likes every part of the bill and you no doubt are going to learn during the course of this hearing about the likes and dislikes of groups interested in the future of Acadia National Park and Mount Desert Island.

I think while we have to attend to these concerns, I think it's very important that we still reach the bottom line need, and that is to set a permanent boundary for the park. It will resolve a great deal of uncertainty on the part of both the Park Service and the towns of Mount Desert Island and the surrounding mainland.

In short, unless action is taken, everybody loses. Now the difficulty arises, as it has for the past 20 years, in moving from point A, and that's the recognition of the need for a permanent solution, to point B, its actual implementation.

Aside from the practical difficulties which stem from the need to exchange parcels of land and draw a boundary which makes some sense, and balance the private landowners' rights with the public interest, there is a great deal of emotion involved in this particular controversy. The issues that make up the entire so-called "Acadia affair" are held very dear by the town fathers, the park, private landowners, and the conservationists.

I think all of us share a desire to resolve the issue once and for all. As I indicated before, there is no benefit in maintaining the status quo, and so I think it's essential that we succeed this time around, and the fact that you've given us a public forum in which to ventilate these issues I think is most important.

As Senator Mitchell and I have indicated and you have no doubt heard, Acadia is a spectacularly beautiful place and coming from the State of Wyoming with your own spectacular beauty I know that you yourself are one who appreciates this kind of beauty. Many of the people who have been charmed by Acadia's beauty have responded by donating their land to the Park Service for inclusion in the park itself.

I think herein lies the basic problem that's been created. The original charter of the Acadia National Park allows the Park Service to acquire land for the park only through donation. It can neither purchase specific parcels nor take them through eminent domain. The evolution of the park has been unique in that sense, but in its uniqueness it has generated these complex problems.

The Park Service has been forced to administer a jigsaw puzzle of a park, with acreage scattered around Mount Desert Island. In addition, it's been prohibited from acquiring parcels of land that it considers crucial to the maintenance of the character of the park, unless they are actually donated.

On the other side of the issue, the towns on Mount Desert Island and on the mainland where the parkland is located have found themselves with no means of controlling the loss of extremely valuable property to the park. The specter of a continually eroding property tax base is something I think that all town managers legitimately fear.

And this situation continues to exist today, to the detriment of both the towns and the park, with the effect of exacerbating the emotionalism of the issue.

So S. 720, which Senator Mitchell introduced and I cosponsored, proposes to draw a permanent boundary around Acadia Park and provide for the exchange of parcels between the Park Service and the various local towns. The Park Service is given the right to use eminent domain on tracts within the boundary only under the condition that certain incompatible uses are occurring. In sum, in exchange for the loss of 1,900 acres of taxable land to the Park Service, the towns receive assurance that the park will not expand indefinitely into the future.

This arrangement basically reflects the Mediated Agreement of 1979, which served as a starting point for subsequent negotiations on the future of Acadia Park. And I think I can speak for Senator Mitchell, saying that we are committed to the passage of a bill that makes sense for Acadia Park and Mount Desert Island.

We have to take into account, I think, this long history and circumstances of the area as we work toward a solution, and I would urge not only the chairman but the members of the subcommittee to keep this in mind as they proceed toward the consideration of S. 720.

And in reviewing the peculiar nature of Acadia's development, we come to the realization that area residents and town managers have legitimate concerns regarding the future of their tax base and their ability to meet their responsibilities for road management, sewage treatment and other administrative tasks. The Park Service has equally trenchant arguments for continuing the preservation of the truly magnificent character of the park itself.

So it's no doubt in my mind that both the Park Service and the towns should benefit from the existence of the park on Mount Desert Island. The ability to make this a mutually beneficial experience has eluded us in the past, but the need to achieve a compromise in the interest of future cooperative planning is at hand and should not be derailed at this juncture.

Mr. Chairman, I once again reiterate my thanks to you for scheduling this hearing. Senator Mitchell I know wants to expand much further on the general remarks that I've made and the witnesses who will follow I think will be in a position to respond to the various types of issues that you and staff are likely to raise.

Senator WALLOP. Bill, thank you for your statement. So that you each know some of the concerns that I have, not about this bill in particular, but about parkland acquisitions generally, we have a backlog of nearly $4 billion of land of American citizens that we have said is parkland, and we have yet to pay them.

And I'm very leery about slipping people into the top of the line. It seems that each session I'm forced to do it in one way or another, to one place or another, and the farther back those other people slide, the more a level of bitterness grows in certain parts of the country which, in my estimation, is totally legitimate. Congress has had an enormous appetite for parkland, but it hasn't had much stomach for buying it.

And so I'm not in any way threatening. I'm just telling you that this is a problem that I confront in each Congress and it causes considerable anguish. Where we'll have, I think, most stress in trying to resolve this is whether the folks do in fact get moved to the head of the line and those who have been waiting 5, 10 or 15 years still remain back with their legitimate needs unsatisfied.

And I think you can appreciate one of the concerns that I have. It's the most egregious kind of taking because once it has been authorized for parkland, it can't be built upon, and nobody's going to pay them for it. The other side of it is that their only privilege remains to pay taxes on it, and they can't sell it to anybody since nobody else can build on it.

I think, it is building to something that might turn into a class action suit somewhere along the line. There has already been a judgment in this year which I think is very unsettling to the National Park Service on this point. So it's a complication. It isn't the prohibition of moving or anything else; it's just a complication.

I know that you would want me to be forthright in expressing my concern.

Senator COHEN. I would say, Mr. Chairman, that the problem is perhaps symptomatic of the larger problem in that we are very good at spending appetites and very poor at appropriating the dollars necessary to pay for that appetite, as evidenced by the budget conference that is currently taking place with the House and Senate right now.

Senator WALLOP. And let me as well invite both of you to join me on the stand if you can for the other part of the hearing.

Senator COHEN. I've got to catch a plane to this beautiful area momentarily.

Senator WALLOP. That is not permitted. [Laughter.]

You come up here.

Senator COHEN. I'm going to make a personal empirical inspection of the region on my way through.

Senator WALLOP. Senator Mitchell.

STATEMENT OF HON. GEORGE J. MITCHELL, A U.S. SENATOR FROM THE STATE OF MAINE

Senator MITCHELL. Mr. Chairman, I want to thank you very sincerely for holding today's hearings on S. 720, the Acadia National

Park Boundary Act of 1985. I know that your schedule personally and the schedule of the subcommittee is very busy, and we really appreciate your efforts to schedule this hearing.

I might say, Mr. Chairman, that one of the really great experiences of my life was to visit the Grand Teton National Park to view and climb and ride on Mount Moran, and you are very fortunate to represent a State of great natural beauty. I hope very much that you will at some point be able to fit it into your schedule to visit Acadia National Park, because I think you'll find that although it is a different kind of natural beauty, it is a spectacular and uplifting park visit. It is, as you know, the highest point of land on the entire Atlantic seaboard of the United States and is truly a spectacular sight.

I also want to thank Senator Cohen and the other Members of the Maine congressional delegation for their cooperation and support in this matter. The legislation now before this committee has been cosponsored and is supported in the Senate and the House by every Member of Congress from Maine.

The legislation would provide congressionally authorized and established boundaries for Acadia National Park. The need for this bill arises from the manner in which the park was established. Acadia was created by private donations of land in the early years of this century. Its charter authorizes further expansion of the park through donations of land in all of Hancock County, ME, and in Knox County east and south of the Penobscot River ship channel. However, the park is not authorized to purchase land.

This combination, the inability to purchase desirable areas for inclusion in the park, combined with the ability to accept donations of property with very little constraint, has turned out to poorly serve the interests of both the local towns and residents and the preservation of the park's unique resources.

The park's open-ended authority to acquire land by donation creates uncertainty and instability for the surrounding communities which face continuing erosion of their local tax base. For each acre of land which is donated to the park, regardless of the value of that land, the local government receives 75 cents annually in lieu of property taxes. In many cases that represents a serious loss of tax revenue to the municipality.

Limitations on the park's authority to purchase property, on the other hand, have resulted in haphazard land acquisition. Key parcels have been omitted from park property and inholdings abound. Consolidation of park land is essential for the protection and sound management of this important resource.

This legislation represents a compromise solution to these problems that is intended to serve both the long-term interests of the park itself and the future needs of the communities who are the Park's neighbors.

Like any compromise, this bill asks both sides to give and to take. In exchange for deleting 700 acres it currently owns, and limiting the area in which it may exercise its charter right to accept donated lands, the park is given the right to purchase from willing sellers or to accept donations of designated parcels equalling 1,900 acres.

The towns, in exchange for this specific limited incursion into tracts that might otherwise remain on town tax rolls, gain the assurance that the boundaries of the park will not expand indefinitely. Without that assurance, it is difficult for the towns to plan for the future.

This bill largely reflects and is based upon what has come to be known as the Mediated Agreement of 1979. That agreement was the product of years of effort to reach consensus on the necessary components of Acadia legislation. While there was not unanimous support for the agreement, it was endorsed by most of the parties interested in resolving the difficult Acadia issues and provides a sound basis for this legislation.

The members of this subcommittee and the full Committee on Energy and Natural Resources will review this measure carefully as you fulfill your responsibilities to oversee national parks. As you examine the provisions of this bill it is likely that you will find the controversies which it addresses familiar to you by virtue of your work in this field.

First, how much land should be included in the park boundaries in order to satisfy national interests in a way that is at the same time fair to local residents? Acadia was the first national park created east of the Mississippi River. It is an area of great beauty which last year alone received over 4,200,000 visitors. This legislation must protect the park for future generations of Americans.

However, the bill must also reflect the reality presented by the area in which the park is located. This is not an undeveloped pristine area. Indeed, much of the charm of Acadia Park derives from its coexistence with fishing villages and towns which have existed since the beginnings of European settlement on the North American continent. This point should be stressed. A visit to the park is a great experience, made even more so by the ability to visit several towns in which the park is located.

Local as well as national needs must be met. Congressionally established boundaries for the park must strike a careful balance. The boundaries in this bill largely reflect those agreed to in the mediated agreement. I ask the members of the committee to be mindful of the long negotiations and compromises, now nearly a quarter century old. Nearly 25 years of discussion and negotiations have led to this point. Consider that when you consider changes that will be proposed here today by some of the witnesses.

Second, how can important park resources be protected while ensuring private owners whose land is located within park boundaries reasonable use of their property? Under the terms of the mediated agreement, the Secretary is authorized to acquire certain designated parcels of land if they are undergoing development incompatible with park protection.

This bill would provide the additional assurance to landowners by specifically defining "incompatible development." This provision is based on legislation to establish the Mono Basin Forest Scenic Area which passed the last Congress.

Third, to what extent should local towns be compensated for the loss of tax revenues resulting from park property within their borders? Clearly there are benefits to towns in close proximity to a national park. These parks are magnets for visitors who contribute to local economies.

However, the coast of Maine itself is an attraction in summer months and most coastal communities in Maine swell with summer vacationers. Yet, for areas that have Acadia as a neighbor, property that might normally be expected to contribute large sums in tax dollars to the communities, in some cases as much as $200 an acre, instead brings in 75 cents an acre in lieu of taxes. For some areas this loss of tax revenues represents as much as one-fifth of the town budget and the total loss of tax revenues may be as high as $1 million annually for all of the towns that share their borders with Acadia.

The Acadia legislation would partially compensate local towns for this loss. The bill would provide for a one-time impact payment modeled after the Cranberry Wilderness legislation of $2 million. In addition, interested towns and the Park Service would join together in constructing a waste transfer station, a facility which the park and the towns would benefit from using. Also, limited areas would be transferred to the town of Bar Harbor for municipal uses.

These provisions, while not fully compensating the towns for their tax losses, would greatly further the cooperative spirit necessary to make the towns and park continued good neighbors.

Mr. Chairman and Senator Bradley, this measure is based on the efforts of many individuals who have worked long and hard to find a fair resolution of the problems confronting Acadia. Local officials, local residents, successive park superintendents, local and national conservation groups, former and present members of the Maine congressional delegation have all contributed to its provisions. I myself have been deeply involved in drafting this bill for over 5 years.

Controversy over the boundaries of Acadia National Park has lasted for decades, now nearly 25 years. It has prevented consolidation of park lands in a way that best serves the interests of local residents, the interests of the millions of park visitors, and the interests of future generations, for whom we all have a responsibility to maintain the park and its resources. I hope this legislation will finally and fairly resolve this dispute. I look forward to working with you, Mr. Chairman, and all the members of the committee and the Senate to achieve its enactment.

I thank you again, Mr. Chairman, for this hearing.

Senator WALLOP. George, thank you. Perhaps the greater realization of what some of us in the West undergo where the Federal Government owns in some places as high as 90 percent of the land mass, that park which you visited and enjoyed so much, Grand Teton National Park, Teton County in Wyoming. It has only 7 percent of its land area which it can exercise control over and tax to run its obligations.

And yet I dare say that the town of Jackson would not be thrilled with the idea of losing any portion of that park. It's a complication that we have, and the amendment which you referred to on the Cranberry Wilderness was added by Senator Byrd on the floor. It is not an amendment that would have ever passed muster in this committee, and I think that you and I would both realize that its precedential value is primarily due to the fact that it was the minority leader at that time.

They are real complications, both from the standpoint of policy and from the standpoint of the level of consistency around and about the country. I promise you to work very hard on those things, but you should know that we view them as a complication before we get started. I have not yet had a chance to review the administration's testimony and the Park Service's testimony on this, and I would not be surprised to hear it come up in there, but, you know, you and I will both decide that as it unfolds before us.

Clearly it is a land mass in an area worthy of park status, National Park status, and we'll try very hard, but I do want you to know that I view some of that as a very complicated road to negotiate.

Senator MITCHELL. I'm aware of that, Mr. Chairman, and I appreciate your comments.

Senator WALLOP. Thank you very much. Glad you could join us.

Bill, do you have——

Senator BRADLEY. Mr. Chairman, I don't have any comments about Senator Mitchell's testimony other than to say that as usual it's very informative and he has a very clear point of view.

I think that some of the things that you touched on will clearly be things that the committee will look at, as well as some of the more creative aspects of the legislation, and I think there are several which might have implications even beyond this. But I would agree with you this is clearly one of the most beautiful places in the country and deserves the kind of protection that only a National Park status can do. You've got to live with your neighbors.

Senator MITCHELL. I thank you.

Mr. Chairman, I renew my invitation to visit Acadia. Completely by coincidence, Congressman Vento, chairman of the House subcommittee, is going to Maine tonight at my invitation. I will accompany him and will be at the park tomorrow for a tour—lobster tonight and a tour tomorrow—and I renew that invitation to you and to Senator Bradley. I know you're very busy, but I hope sincerely at some point you could work it out. I think it would be something you'd enjoy.

Senator BRADLEY. Could you just bring a lobster back on Monday? [Laughter.]

Senator WALLOP. That might soften some of this rocky road we were talking about. [Laughter.]

Senator MITCHELL. Mr. Chairman, I will accept your invitation to join you. I do intend to stay through the hearing, so I thank you very much for that.

Senator WALLOP. Please do.

The next witness is Regional Director Herbert Cables, Jr. of the National Park Service, who is accompanied by Ron Wrye, Superintendent of Acadia National Park. Ron I know a little bit from Yellowstone.

Mr. WRYE. Good to be here, Mr. Chairman.

Senator WALLOP. Nice to see you.

STATEMENT OF HERBERT S. CABLES, JR., REGIONAL DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY RON WRYE, SUPERINTENDENT, ACADIA NATIONAL PARK

Mr. CABLES. Mr. Chairman, I appreciate this opportunity to present the views of the Department of the Interior on this legislation. I am accompanied this morning by Superintendent Ronald Wrye.

We recommend enactment of S. 720, provided it is amended in accordance with the concerns expressed in my statement.

Acadia National Park was established by the act of January 19, 1929. Authority for land acquisition was limited to donations in Knox and Hancock Counties east and south of the main ship channel. The park consists of 35,064 acres held in fee by the Federal Government and 4,209 acres in easements.

Under the authority to accept donations, many significant properties, exemplifying the rocky and forested headlands of exceptional resource quality, have been received. However, important properties, some partially or completely surrounded by park holdings, remain in private ownership.

In addition, isolated parcels were donated that today appear to have no significant relationship to the park. In the last half of the 20th century acquisition limited to donation is no longer an adequate method of land protection. Without other means of land protection, significant resources continue to be lost or threatened due to development and resource consumption.

We have identified an additional 2,042 acres which we believe should be acquired and devoted to park purposes. These lands are located on Mount Desert Island and 11 other smaller islands adjacent to or near existing parklands. They include rocky and forested headlands of exceptional scenic quality, lands important for ecological protection, and areas for public recreational use.

We strongly support the enactment of legislation to authorize the acquisition of these additional lands by purchase, donation, transfer, or exchange. However, because of some problems with specific provisions contained in this bill, as discussed below, we recommend the enactment of S. 720 only if it is amended as follows.

Boundary. The National Park Service recommends a boundary for Acadia National Park that includes the existing 35,064 acres held in fee by the Federal Government, the existing 4,209 acres in easements, and an additional 2,042 acres necessary to preserve the integrity of the park's resource base. At the same time, 722 acres no longer significant to existing park resources should be deleted. This boundary would add 178 tracts to the existing parkland holdings and delete 23 tracts, all located on Mount Desert Island, and it would add 11 islands adjacent to or near existing parklands.

The 11 islands included in the bill—Schoodic Island, Rolling Island, Bar Island, Egg Rock, Baker Island, Green Islands, Drum Island, Ship Island, Trumpet Island, and a yet-to-be-determined island for back country camping—are the nucleus of this boundary addition. These islands, supporting diverse flora and fauna, preserve the integrity of the seaward orientation that is so unique at Acadia National Park.

This boundary would achieve the following objectives: the protection of lands of outstanding scenic or ecological significance; acquisition of lands important for public use or recreation; elimination of inholdings; and consolidation of the parkland holdings.

The intent of this bill is supportive of these objectives. However, two significant areas that we feel are important for the protection of the scenic quality of the park are not included in the park boundary referred to in this bill. These two areas, Schooner Head and High Seas, consisting of 46 and 14 acres respectively, are located on the eastern rocky cliffs of Mount Desert Island overlooking Frenchman Bay.

The National Park Service has identified these parcels for acquision over a period of over 20 years. These areas are viewed by millions of visitors from both roadside overlooks on the very popular Park Loop Road and the ocean during boat tours. The visual integrity of the coastline was an important design objective of the Park Loop Road and earlier land acquisition. This uninterrupted view, extending from the ridgetop of Champlain Mountain to the ocean, will be further compromised if these lands remain outside the park boundary and additional rooftops populate the horizon.

Both areas adjoin existing parklands and Schooner Head, overlooking the ocean, is bordered on three sides by parkland. Their outstanding scenic and natural values, combined with their prime location for Acadia's visitors, make it extremely important that these lands receive permanent park protection.

We strongly recommend including these areas within the park boundary to prevent further resource impacts from alterations of the visual integrity of the coastline, such as the recent development on Schooner Head.

Acquisition Authority. The 2,042 acres we recommend for acquisition consist of 178 tracts, of which 136 are not developed. The authority to acquire lands and interests in lands by purchase would be limited to willing sellers under this bill, except when incompatible developments or changes in use occur or are about to occur.

The effect of this provision would be to place the decision of when to acquire and what to acquire in the hands of landowners rather than the Federal Government. Further, by requiring the Secretary to wait until incompatible development is imminent or has already occurred, the bill would ensure that the Government would pay the highest possible price for the land.

From a resource-protection standpoint, the bill's acquisition authority is deficient because it would permit new construction on 119 of the 136 undeveloped tracts as being compatible with the purposes of the park. Such development is clearly incompatible with the park's purpose.

We strongly recommend that the bill be amended to authorize acquisition of all lands within the boundary, by condemnation if necessary, subject to the continuation of certain existing uses for 25 years or the lifetime of the owners. We wish to emphasize, however, that condemnation would be used sparingly. Every effort will be made to acquire land by negotiated purchase, but condemnation authority must be available to prevent resource damage.

Conveyance of Federal lands. The bill directs that certain Federal lands excluded from the new park boundary be conveyed to local political jurisdictions without cost. This requirement would apply to Federal lands not exchanged within 5 years, four other specific tracts, and one additional tract to be used as a solid waste transfer station.

We support an exchange of the federally owned lands now used as the Bar Harbor Sewage Treatment Plant and the New Park Street Ballfield under a special use permit for the non-Federal Lakewood Parcel and Breakneck Road. We also support a transfer of federally-owned Patty Lot Hill to the town of Bar Harbor for construction of a solid waste transfer station.

We recommend that all other Federal lands excluded from the park be available for acquisition of the non-Federal lands added to the park by exchange, where agreement can be reached on such exchanges. If no such agreement can be reached, we recommend that these Federal lands be sold at fair market value and the proceeds earmarked for land acquisition purposes in the park.

Role of the advisory commission. Under the Federal Advisory Committee Act generally, and under section 3(a) of the act of August 18, 1970, specifically applicable to the National Park System, the Secretary may establish and appoint advisory committees. Such committees differ from the commission to be created by section 6 of this bill in two important respects. They are appointed by the Secretary from recommendations submitted to him, and they exercise an advisory role.

Under this bill, of the 16 members only 3 are appointed by the Secretary, the remainder being appointed by non-Federal officials; and the role of the commission is operational rather than advisory.

For example, section 3(c) requires a justification in writing to the commission before an easement may be acquired; and section 4 requires a unanimous commission vote—we assume in favor—before an island may be acquired for camping. The provisions of the bill with regard to the commission should not be enacted because they contravene the basic appointment power of the President and they intrude unnecessarily into the operational authority of the Secretary.

As an alternative to the advisory commission we recommend the existing league of towns as an appropriate public forum to provide a broad representation to parties interested in park and islandwide issues without the creation of another advisory body.

Grants to towns. Section 7 of the bill directs the Secretary to make a $2 million grant divided among seven towns. We recommend that this provision be deleted. Based on the annual reports of four of the seven towns referred to in the bill, each has had a surplus balance or carryover in its annual budget through the years, through 1983—from 1974 through 1983. Each has also been the recipient of Federal revenue-sharing funds and those towns with Federal lands within them have received payments in lieu of taxes.

With the need to reduce spending and the Federal deficit, outright grants such as those directed to be made in this bill cannot be supported. Further, local roads, and police and fire protection, for which these grants would be used, are an inappropriate use of National Park Service funds. The precedent for communities adjacent to other parks across the country to argue for similar grants is inherent in this bill. If followed, it would be extremely expensive.

Federal property on Bear Island. Section 8 of the bill directs the transfer of Federal property on Bear Island, now currently under the jurisdiction of the town of Cranberry Isle, to the jurisdiction of the Secretary, and it directs the Secretary to improve this property as required to protect adjacent private property.

This 3.25-acre Federal property, administered by the U.S. Coast Guard, consists of a lighthouse and a small boat house on the west end of the 17-acre Bear Island. This facility, potentially eligible for nomination to the National Register of Historic Places, contributes to the visual character of the surrounding area. However, we recommend that the U.S. Coast Guard dispose of the facility with significant deed restrictions to ensure appropriate preservation.

The provisions under this bill would impose operational and administrative responsibilities that benefit the adjacent 13-acre private landowner with limited benefits to the park visitors. This facility would require substantial funds to stabilize the structures and to ensure protection to the adjacent landowner. We do not support this partial island acquisition and recommend that it be deleted.

Mr. Chairman, if this bill is amended as we recommend, we strongly support its enactment. The estimated cost of acquiring the properties we believe should be included in the park is $13,823,000. Additionally, section 2(c) directs the Secretary to convey Patty Lot Hill to the town of Bar Harbor for development of a solid waste transfer station, and it directs the Secretary to pay the lesser of $350,000 or 50 percent of the cost of the construction of this facility.

The development of the Mount Desert Island-wide solid waste transfer facility to accommodate refuse generated in Acadia National Park and island towns has become increasingly imperative. The existing landfill site used by three of the four towns is not in compliance with State of Maine standards and has been cited by the Environmental Protection Agency for violations of the Clean Water Act.

Based upon engineering studies, there are no suitable landfill sites on Mount Desert Island. Development of this transfer facility would benefit both the park and its neighboring island towns. We support the need for the facility and would not object to provisions authorizing us to contribute to it.

However, the National Park Service contributes only about 5 to 10 percent of the total solid waste generated on the island. Furthermore, the bill would give the town an 88-acre parcel of park land on which to construct the facility. This parcel is valued at some $65,000. We recommend that the bill be amended to limit the amount of the Federal Government's contribution to no more than 10 percent of the cost and that the value of the land given for the facility be taken into account in determining our contribution. No other development or operating costs are anticipated.

This concludes my prepared remarks. I and the superintendent will be pleased to answer any questions that you or other members might have.

Senator **Wallop**. Thank you, Mr. Cables. I appreciate your remarks.

Senator Bradley, did you have any questions?

Senator **Bradley**. Yes. You want me to ask questions first?

I was interested in your testimony on acquisition authority. Have we ever had a piece of park legislation where the acquisition of the nonpark land now would wait until there was development before the acquisition?

Mr. **Cables**. I'm not sure.

Mr. **Wrye**. I think perhaps Cape Cod has legislation that is generally along those lines, yes. I don't know of any other.

Senator **Wallop**. Bill, I might just add that that is pretty much the practice because of this big backlog that exists now. That is sometimes the only way in which people can get paid, is to poise a bulldozer on the edge of their property, and that does grab attention. But I don't think that's particularly precedential.

Senator **Bradley**. My only question is that, as you say here, by requiring the Secretary to wait until incompatible development is imminent or has already occurred the bill would ensure that the Government would pay the highest possible price for the land. That's one of the questions that occurs to me here.

The difference between saying you're going to acquire a field and then saying you're going to acquire a condominium project that's been fully developed at a different price, doesn't that concern you?

Mr. **Cables**. I think, Senator, the intent of what we are proposing is that rather than having to face the development that might not presently be within the boundaries of the park, we're proposing to put within the boundaries of the park all those lands which contribute significantly to the resource of the park, and by doing that we would preclude the development of areas within the established boundary of the park, thereby lessening the cost that one would have to pay at a later point in time.

Senator **Bradley**. Well, let's take these two brown spots on the eastern side of the island that are surrounded by park on three sides that you recommend be included in the park. What is on those tracts now?

Mr. **Wrye**. The Schooner Head property consists of approximately 45 acres and there are nine homes developed on that property now, and there's room for additional construction, additional home construction there. The High Seas property has a large historic house on it, and that's the only substantial building on that property.

Senator **Bradley**. So your recommendation is that those areas be brought within the park boundaries, that they be purchased now, or wait until we see if the one historic home is torn down and somebody proposes to build a ten-story condominium there?

Mr. **Wrye**. We're not necessarily interested in acquiring improvements on those lands at this time. What we're interested in is protecting against the eventual further development of those lands, particularly the possibility of them going commercial such as you described, with condominiums or other resort kinds of facilities.

If they are excluded from the boundary, then the Secretary would be left without any authority to control what took place on those properties.

Senator **Bradley**. So by bringing them within the boundary you then retain the right at some point, if there is adverse development, to intervene and to, what, condemn the land and buy it?

Mr. WRYE. That's the authority we're seeking, yes.

Senator BRADLEY. What do you think of this? I see in your testimony the grants. How do we determine what is the right number for the grants? We have the Gateway National Seashore Park in New Jersey, and, you know, they handle nearly four million people. There is clearly an impact of a national park on the area surrounding it, and yet how do you determine how much?

Mr. CABLES. Well, speaking to both of those situations, Gateway, which I'm very familiar with, we kind of think that in both instances the visitor population and the business that is generated as a result of having them there more than compensates for the services that are necessarily provided by local communities. Further, you get into employment and other aspects that would not possibly be available if it were not for the location of both of those parks.

And in the case more specific to Acadia, we think that studies have proven over the years that their presence there and the visitor use that is a part of that park more than make up for any cost in services that the local communities have to provide.

Senator BRADLEY. So you don't support the grants?

Mr. CABLES. No, we don't.

Senator BRADLEY. You think there should be no grants?

Mr. CABLES. That's correct.

Senator BRADLEY. OK. Thank you, Mr. Chairman.

Senator WALLOP. Senator Mitchell?

Senator MITCHELL. I'd just like to make one comment and then ask a question.

With respect to the question that Senator Bradley asked, of course, Mr. Cables, as you know, the bill provides that the Secretary is authorized to exercise the power of eminent domain that is in the bill when he determines that the lands in question are undergoing or are about to undergo development or changes in use which are incompatible with the purposes for which the park is established.

So the bill contemplates that the Secretary would not wait until the condominium, in Senator Bradley's example, were actually built, but when it were determined that any such prospect were imminent or in the works he could authorize the condemnation.

I just want to ask you two questions briefly. On page 5 of your testimony you ask for an amendment of the eminent domain authority so that the Secretary can condemn property subject to continuation of certain existing uses of such property. Can you be more specific? For example, could a property owner build an addition to his home or build storage buildings or build a garage? If you wish to do so, you may submit an answer in writing on that, but I wonder if you would provide more detail on what it is you mean when you say continuation of certain existing uses.

Mr. WRYE. We'd be pleased to furnish that to you, Senator.

[The information referred to follows:]

The Department recommends that the bill authorize the acquisition of all lands within the boundary, by condemnation if necessary, subject to the continuation of certain existing uses for fixed terms of up to 25 years or the lifetime of the owners. The existing uses referred to are those residential or commercial improvements that existed before the enactment of this legislation. Under our recommendation the Government would acquire the improved property, but the former owner would be given a right to choose to continue to live in it for a specific term of years or for the lifetime of the owner and his or her spouse. The owner would be paid at the time of acquisition the fair market value of the property, less the value of the right retained by the former owner. During the period the former owner occupies the property he would be responsible for the maintenance and protection of the reserved structures. The reserver would not have the right to build an addition to the dwelling or other building or to erect additional permanent buildings without the consent of the National Park Service. However, our intention is to permit reasonable alterations so long as the basic character of the property and its use are not materially altered. We would not object to the construction of a small storage building, garage, dock, or boathouse on property that is already improved. Each case will be considered on its own merits.

Senator MITCHELL. I have one additional question. It has been brought to my attention by some of the town representatives and one of the witnesses will suggest that there is a need for a specific on-the-ground survey and identification of the park boundary because of the manner in which the park has been developed there may be some inconsistencies and errors. And would you oppose or, I hope, would you support a change in the bill or an addition that would permit us to conduct a specific on-the-ground survey, identify and mark the boundaries and correct any errors that may exist?

Mr. WRYE. Certainly we would encourage that to be done. If there are such inconsistencies now on the ground we need to correct those.

Senator MITCHELL. Thank you very much. Thank you, Mr. Chairman.

Senator WALLOP. George, thank you.

What is the basis of the $13 million figure and how comfortable are you that that will last? Our experience on this committee with Park Service acquisition estimates have been that they are surpassingly conservative and usually we end up paying at least twice and sometimes three times as much as is estimated.

Mr. WRYE. All the acquisition parcels, Mr. Chairman, including also the deletions involved, were appraised by our Lands Office late this spring, so those appraisal figures are less than 6 months old, and we must rely on them.

Senator WALLOP. Did they bother to contact the landholders as to their view of land values?

Mr. WRYE. I can't really explain to what extent they've gone to determine their value, but I know there was a rather extensive comparable value study done in determining the values of each particular parcel.

Senator WALLOP. I would say to Senator Mitchell, welcome to the world of inholders. It will complicate your life more than you believe possible.

We'll have some further questions which we'll direct to you as we develop this legislation, take your recommendations seriously, and I assume that we'll have some reaction from some of the witnesses who may have a different view about the condemnation features that you proposed.

It's just not easy when you start making national parks out of areas that are already settled through additions on the eastern side and settlements there. As you describe them, they tend to indicate that you're about 60 years too late in doing that. But again we'll just look at it carefully as we go along.

I, too, am concerned about the precedential nature of the grants. I have communities in Wyoming which would be very encouraging of my offering it to the State of Maine and those communities so that they could have the same thing immediately coming their way. It's a big system. It's hands-down the best in the world and one of the most valuable assets that this country has, but it does complicate the smooth flow of Government decisions in this great democracy.

I don't know how we'll solve them, but we'll sure work on them, and I thank you both.

Mr. **Cables**. Thank you, sir.

Senator **Bradley**. Mr. Chairman, could I ask one more question? Let's take those two parcels on the eastern side of the island again. What if the Park System acquired them but gave occupancy rights and the right to the owners to transfer those rights through family bequests?

Mr. **Wrye**. Those rights could be extended indefinitely? Yes, that could be done.

Senator **Bradley**. And that way you wouldn't then——

Mr. **Cables**. You wouldn't disrupt.

Senator **Bradley**. You wouldn't later be saying well, now the Park Service has to take an action to prevent a change in circumstance and the people who are there would have the use of the property as they have come to know it indefinitely.

Mr. **Cables**. That's correct.

Mr. **Wrye**. That could be acceptable, yes, Senator.

Mr. **Cables**. That particular provision or a similar provision is in effect at Cape Cod National Seashore.

Senator **Bradley**. Thank you.

Mr. **Wrye**. I'd like to make one comment following Senator Mitchell's comment regarding incompatible developments within a boundary. We have interpreted the bill language to mean that the incompatible definition only applied to the 28 specific parcels that are mentioned of the total of 178.

It's our interpretation, therefore, that 150 of the 178 have no protection. Now if we have misinterpreted the bill language then obviously our position would change and our testimony would be in error. But I simply wanted to clarify that.

Senator **Wallop**. I might make another observation, that I don't think this committee is going to be too enthusiastic about proposing a park boundary that includes a yet-to-be-determined island. I think we would want to know which island that was before we cast that authority. I mean, Wild Card Island, I suppose it might be called.

Thank you.

[Subsequent to the hearing the Department of the Interior submitted the following:]

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC., August 5, 1985.

Hon. Malcolm Wallop,
Chairman, Subcommittee on Public Lands, Reserved Water and Resources Conservation, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP. In accordance with your request of July 25, enclosed are our responses to the questions from Senator Bumpers on S. 720, the bill to establish a permanent boundary for Acadia National Park, Maine.

We appreciate the opportunity to supplement our testimony.

Sincerely,

STANLEY T. ALBRIGHT,
Acting Director.

Enclosures 2.

QUESTIONS FROM SENATOR BUMPERS

Question 1. Has the Department of the Interior made any estimate of the revenues to the towns within Acadia National Park which are generated as a result of the existence of the Park? If so, please provide it for the record.

Answer. The Department has not made an estimate of revenues generated as a result of the existence of the park. Appropriated funds spent on maintaining, operating, and developing the park, however, are a significant element in any attempt to determine the economic benefits that the park represents. Attached is a table indicating park visitation and funding by fiscal year since 1975.

Question 2. Has the Department made any calculations with regard to payments which would be made to towns for newly acquired park land under the provisions of Sec. 3 of PILT, which require the Federal Government to pay 1 percent of the fair market value of the acquired land for five years?

Answer. Yes. The maximum annual payment under section 3 of Public Law 95-565, the PILT authorization, is $81,193.76 under the bill as we recommend it be amended.

ACADIA NATIONAL PARK VISITATION AND FUNDING

Year	Visitation	Base funding	Rehab/cyclic maint funding	Development/ special funding
1975	2,786,681	$548,000	$152,400	$229,300
1976	2,775,065	728,100	55,200	39,000
1977	3,181,269	793,900	24,100	42,500
1978	3,130,126	825,700	59,100	1,180,500
1979	2,883,279	947,900	66,500	146,100
1980	3,273,095	1,081,600	25,000	204,500
1981	3,402,973	1,229,300	107,300	115,700
1982	3,755,161	1,167,200	209,600	64,900
1983	4,269,663	1,375,100	109,500	517,800
1984 [1]	1,946,013	1,512,700	440,000	1,841,944

[1] As of July 31, 1984. Projected 4,130,600.

Senator **WALLOP**. Next is a panel and we're going to begin the timing now. The first witness on that is Mr. Everett Carson, who is the executive director of the Natural Resources Council of Maine; Mr. Destry Jarvis, who is vice president of the National Parks and Conservation Association; Miss Sarah Muyskens, northeast regional director of the Wilderness Society; and Kenneth Spalding, executive committee of the Maine Group Sierra Club.

I'm going to ask you to proceed, Mr. Carson. We'll just go down, unless you as a panel wish to rearrange the order.

Mr. Carson, we'll begin with you.

Mr. **CARSON**. If you would permit it, that is what we would like to do. Miss Muyskens would prefer to go first, with Mr. Spalding second, and I would follow them.

Senator **WALLOP**. Very well.

STATEMENT OF SARAH MUYSKENS, REGIONAL DIRECTOR, NORTHEAST REGION, THE WILDERNESS SOCIETY

Ms. MUYSKENS. Mr. Chairman and members of the subcommittee, I'm Sarah Muyskens, the director of the northeast region of The Wilderness Society. I appreciate the opportunity today to share our views regarding S. 720, a bill which proposes the establishment of a fixed boundary for Acadia National Park in Maine.

We commend Senator Mitchell and Senator Cohen for their leadership in trying to resolve the longstanding issue with regard to the park's boundaries by the introduction of this legislation. The park's and the towns' and the citizens' interests would be well served by finally resolving this matter. However, the conservation community finds that the bill needs a great deal of improvement, in order to satisfactorily protect the Park's interests and needs.

The Wilderness Society and its over 140,000 members marks its 50th anniversary this year, 50 years of concern for the public lands of America and for her national parks. These gems are to the American people what the great cathedrals of Europe are to all Europeans—monuments to civilization and an affirmation of life itself.

The National Park Service Director Mott understands the meaning of the national parks. He addressed questions of overuse of park visitors in a recent speech in Yellowstone National Park, but in an important way he also talked about the ability of park lands and the Park Service to provide, as he said, "for the greatest amount of high quality public enjoyment of the resources that can be supplied."

Annual visitation in 1984 for Acadia National Park was almost 4 million people, second only to Great Smoky Mountains National Park. Yet, of the 48 national parks there are only 5 that are smaller in acreage than Acadia. Clearly, there is an inherent conflict in these figures, particularly when one considers the quality of the experience of the visitors.

Acadia was set aside as a national park in 1919, yet the current legislation in both its administrative provisions and in setting the boundary puts local interests before the national interest. In light of the heavy use of the park and the small land base for it, the legislation works very negatively against current and future generations of park visitors.

The issue divides into three basic categories, the first being how those lands are treated and managed once added, which I will address, the second being the lands needed to be added to the park now—which the Sierra Club of Maine will address—and the third being the need for studies to help resolve the questions about the future of Acadia National Park, which will be addressed by the Natural Resources Council of Maine.

The positions addressed by each of these organizations are shared by all of them. We have some very major problems with the bill in terms of its lack of adequate protection for those lands which would be added to the park. It plainly doesn't make any sense to incorporate new lands into the park and then not give them the strength of protection normally accorded park lands. This bill is seriously flawed in this regard.

With some specific exceptions, the bill generally prohibits the National Park Service from acquiring lands inside the park boundaries unless the owner consents. We feel this does not give the Park Service sufficient authority to consolidate holdings for a viable park operation and to also protect the integrity of lands inside the boundary from adverse uses that may be thrust upon them.

Also, there are some land parcels specified in the bill where condemnation could apply but the landowner is allowed by the bill to take numerous actions which could bring major adverse impact to the land and still remain free from condemnation.

For instance, a landowner could build a residence inside the park on unimproved property. This is a grossly unacceptable arrangement. Why bring undeveloped, park quality land into the park and then allow it to be privately developed?

The bill also permits other quite significant improvements and expansions to be made on already developed lands within the park. We seriously question the wisdom of allowing some of this, as it could bring additional clearly incompatible development into the park environment. We do realize that there may be a need to use some reasonable flexibility for future changes and we do not oppose such flexibility categorically, but we feel this should be handled by Park Service policy rather than by statute, which is the more normal procedure for addressing this type of situation.

We have problems, for example, with such a categorical provision as allowing existing structures or accessories to expand by 50 percent. In summary, we urge the provision of this bill dealing with this matter to be totally deleted or seriously modified to protect the natural integrity of park lands.

We also have some concern over the land exchange provision in section 2(a)(3) of the bill which automatically conveys Government lands outside of the park's boundary to the towns within 5 years and without compensation should those lands not be utilized for exchange purposes before that time. We do not see the wisdom or merit of such a procedure and suggest that this provision be sticken or strongly modified to more appropriately protect the Government's interests.

We have a number of concerns related to the establishment of a new advisory commission for the park. As the bill is written, this group functions with more than mere advisory duties. Section 4 contains a provision actually allowing the commission to exercise a veto authority regarding the addition of an additional island to the park for backcountry use by virtue of the commission not voting unanimously to do so. We feel that such veto authority for an advisory commission is inappropriate.

Let me touch briefly on two other issues of critical concern to the Wilderness Society. First is the essential additions to the park boundary. The most unique feature of Acadia National Park is its coastline. Many of the additions that will be presented by the Sierra Club would add significantly to the protection of this valabule resource. It is essential that these lands that have the highest value for the park be included in the legislation at this time.

[The prepared statement of Ms. Muyskens follows:]

THE WILDERNESS SOCIETY

STATEMENT OF SARAH MUYSKENS, REGIONAL DIRECTOR (NORTHEAST REGION), THE WILDERNESS SOCIETY, REGARDING S. 720 (ACADIA NATIONAL PARK BOUNDARY), BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES, JULY 12, 1985.

Mr. Chairman and Members of the Subcommittee, I am Sarah Muyskens, the Regional Director for the Northeast Region of The Wilderness Society. I appreciate the opportunity today to share our views regarding S. 720, a bill which proposes the establishment of a fixed boundary for Acadia National Park in Maine.

We commend Senator Mitchell and Senator Cohen for their leadership in trying to resolve a long standing issue with regard to the Park's boundaries by the introduction of this legislation. The Park's and the local towns' and citizens' interests would be well served by finally resolving this matter. However, we find that the bill needs a great deal of improvement in order to satisfactorily protect the Park's interests and needs, and we shall indicate what some of the most important of those improvements are.

The Wilderness Society marks its fiftieth anniversary this year--fifty years of concern for the public lands of America and for her national parks. These gems are to the American people what the great cathedrals of Europe are to all

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Europeans: monuments to civilization and an affirmation of life itself.

The new director of the National Park Service, William Penn Mott, understands the meaning of the national parks. In a speech given in Yellowstone National Park last month, Director Mott recalled the mandate of the 1916 Organic Act which established the National Park System and the National Park Service: parks were established "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." He goes on to say that there is an important part of that phrase which hasn't seemed, heretofore, to capture enough attention, and that is the last part of it which says, "as will leave them unimpaired for the enjoyment of future generations."

Director Mott is specifically addressing the question of overuse by visitors, but in an important way he is also talking about the ability of park lands and the Park Service to provide, as he said, "for the greatest amount of high quality public enjoyment of the resource that can be supplied." Annual visitation for 1984 in Acadia National Park was 3,917,797, second only to Great Smoky Mountains National Park. Yet, of the 48 national parks, there are only five that are smaller in acreage than Acadia. Clearly, there is an inherent conflict in these figures, particularly when one considers the quality of the experience of the visitors.

Acadia was set aside as a national park in 1919. It is the firm desire of The Wilderness Society that it continue to retain that quality. The current legislation, in both its administrative provisions and in setting the boundary, puts local interests before the national interest. In light of the heavy use of the Park and the small land base for it, the legislation works very negatively against current and future generations of Park visitors.

The issue quite simply divides into three basic categories: the first being how those lands are treated and managed once added, the second being the lands needed to be added to the park now, and the third being the need for studies to help resolve the questions about the future of Acadia National Park.

I. Treatment Of Lands To Be Added:

We have some very major problems with the bill in terms of its lack of adequate protection for those lands which would be added to the Park. It plainly doesn't make any sense to incorporate new lands into the Park, and then not give them the strength of protection normally accorded park lands. This bill is seriously flawed in this regard.

With some specific exceptions, the bill generally prohibits the National Park Service from acquiring lands inside the park boundaries unless the owner consents. We feel this does not give the Park Service sufficient authority to consolidate holdings for a viable park operation and to also protect the integrity of lands inside the boundary from adverse uses that may be thrust upon them, and this situation constitutes a very unacceptable arrangement.

Also, there are some land parcels specified in the bill where condemnation could apply, but the landowner is allowed by the bill to take numerous actions which could bring major adverse impact to the land and still remain free from condemnation. For instance, a landowner could build a residence inside the Park on unimproved property. This is a grossly unacceptable arrangement! Why bring undeveloped, park quality land into the Park, and then allow it to be privately developed? The bill also permits other quite significant improvements and expansions to be made on already developed lands within the Park. We seriously question the wisdom of allowing some of this, as it could bring additional clearly incompatible development into the Park environment. We do realize that there may need to be some reasonable flexibility permitted for adjustment and change through time regarding existing facilities, and we do not oppose such flexibility categorically, but we feel this should be handled by Park Service policy, rather than by statute, which is the more normal procedure for addressing this type of situation. We have problems, for example, with such a categorical provision as allowing existing structures or accessories to expand by 50 percent.

In summary, we feel that if lands are to be added to the Park, they surely deserve to be protected as park lands, free from development for private use. To add them to the Park and then allow them to become increasingly developed makes absolutely no sense. We urge that the provisions of the bill dealing with this matter be totally deleted or seriously modified to adequately protect the natural integrity of park lands.

We also have some concern over the land exchange provision in Section 2 (a)(3) of the bill which automatically conveys government lands outside of the Park's boundary to the towns within five years and without compensation, should those lands not be utilized for exchange purposes before that time. We do not see the wisdom or merit of such a procedure, and suggest that this provision be stricken or strongly modified to more appropriately protect the government's interest.

We have a number of concerns related to the establishment of a new advisory commission for the Park. As the bill is written, this group functions with more than mere advisory duties. Section 4 contains a provision actually allowing the Commission to exercise a veto authority regarding the addition of an additional island to the Park for back country use, by virtue of the Commission not voting unanimously to do so. We feel that such veto authority for an Advisory Commission is inappropriate. Also, all Commission members should be appointed by the Secretary, from lists of candidates submitted by the sources mentioned in the bill. The Commission should also have an expiration date; we recommend a life of ten years.

II. Proposed Additions to Park Boundary:

The most unique feature of Acadia National Park is its coastline. Many of the following additions would add significantly to the protection of this unique resource. It is essential that the following lands that have the highest value for the Park be included in the legislation at this time:

1. Add Schooner Head
2. Add High Seas
3. Add Sol Cliffs
4. No deletion #8DBH
5. Add Long Porcupine Island
6. Add Burnt Porcupine Island
7. Add Thrumcap Island
8. Expand buffer zone around Otter Cove
9. Add Champlain Monument and land to Route 3
10. Add the coast zone from Hunter Cove to Ingraham Point
11. Add Bear Island
12. Add Sargent Point
13. Add north side of Acadia Mountain
14. Add Mason Point
15. Add Squantum Point
16. Add west side of Seal Cove Pond
17. Add west side of Hodgdon Pond
18. Add Sargent Brook/Giant Slide Trail
19. Add Marshall Brook
20. Add Richardson Brook

III. Conservation Easements on Schoodic Peninsula:

The Park Service should be given authority to accept conservation easements on Schoodic Peninsula.

IV. Additional Studies:

The Wilderness Society believes that several studies of issues related to Acadia National Park should be undertaken. A deadline should be set for their completion and report to Congress. These studies are recognition that there are controversial elements of Park management and protection that must be addressed in an objective manner, so that there can be an ultimate resolution of the questions about the future of Acadia National Park.

There are several areas that should be studied for future addition to the Park. They are as follows:

1. Corridors east and west of Otter Creek and Otter Cliff Road.
2. Coastal zone parcels and access from Indian Point to Seal Cove.
3. Parcels of Echo Lake and Long Pond shorefront and Carter Nubble
4. Wetlands near Bass Harbor Marsh
5. Island archipelago (more than the ten already mentioned in S. 720)
6. Parcels of east and west shore of Somes Sound
7. Fernald Point
8. Big Rocks
9. Long Heath added to Sunken Heath addition
10. Proposed deletions, with the understanding that the Park Service will be part of the solution for a solid waste transfer station which may necessitate deletion of land from the Park to accommodate one.

Finally, we feel that the Section 9 provision dealing with transportation capacities should be broadened to deal with all visitor capacities for the Park, and should be pursued under the approach of existing law (Section 12(b) of the Act of August 18, 1970; P.L. 91-383) which requires visitor carrying capacities to be identified through the park general management plan preparation process. By utilizing this approach, the results of this capacity determination will become implemented by virtue of becoming a part of the Park's general management plan. This is an existing standardized approach now utilized for all park system units. As written, the bill's language contains no provision for implementation of the report's contents.

Mr. Chairman, we are preparing specific amendments to S. 720 to reflect our concerns and suggested modifications, and we should be able to share those with the Subcommittee within a few weeks.

Thank you again for the opportunity to express our views, and we would be pleased to have the opportunity to work with the Subcommittee and the bill's sponsors to fashion a modified bill which would hopefully be acceptable to all interests.

A Summary of Major Points of the Joint Position of the Natural Resources Council of Maine, The Sierra Club, and The Wilderness Society on the Acadia National Park Boundary Bill

I. Proposed Changes to Administrative Provisions

A. The Secretary of the Interior be given eminent domain authority on all lands within the boundary, not only selected parcels.

B. New private development within the Park's boundary should be prohibited. Additions to existing structures should be handled by existing Park Service policies.

C. The five year limit on park land exchanges be deleted.

D. The Acadia Park Advisory Commission role be strictly advisory and be limited to a ten-year life as with other parks.

II. Proposed Additions to Park Boundary

A. Add Schooner Head
B. Add High Seas
C. Add Sol Cliffs
D. No deletion #8DBH
E. Add Long Porcupine Island
F. Add Burnt Porcupine Island
G. Add Thrumpcap Island
H. Expand buffer zone around Otter Cove
I. Add Champlain Monument and land to Route 3
J. Add the coast zone from Hunter Cove to Ingraham Point
K. Add Bear Island
L. Add Sargent Point
M. Add north side of Acadia Mountain
N. Add Mason Point
O. Add Squantum Point
P. Add west side of Seal Cove Pond
Q. Add west side of Hodgdon Pond
R. Add Sargent Brook/Giant Side Trail
S. Add Marshall Brook
T. Add Richardson Brook

III. Conservation Easements on Scoodic Peninsula

The Park Service should be given authority to accept conservation easements on Schoodic Peninsula.

IV. Proposed Studies (to be completed by 1991)

A. Carrying Capacity Study to examine the impact of park visitation on Acadia's natural resources and the quality of life in surrounding towns. Results from this study to be used to develop sound management policies.

B. Future Addition Study to determine if areas which lie outside the boundary qualify for addition to the Park due to important scenic, ecological, or cultural resources. Lands proposed for study include:

1. Corridors east and west of Otter Creek and Otter Cliff Road;
2. Coastal zone parcels and access from Indian Point to Seal Cove;
3. Parcels of Echo Lake and Long Pond shorefront and Carter Nubble;
4. Wetlands near Bass Harbor Marsh;
5. Island archipelago (more than the ten already in the bill);
6. Parcels of east and west shore of Somes Sound;
7. Fernald Point;
8. Big Rocks;
9. Long Heath added to Sunken Heath addition;
10. Proposed deletions, with the understanding that the Park Service will be part of the solution for a solid waste transfer station.

C. Economic Impact Study to evaluate the true economic relationship between local towns and the Park and to recommend mechanisms to compensate towns for any net adverse financial impact.

Senator WALLOP. Thank you very much, Ms. Muyskens. Now was it Mr. Spalding?

STATEMENT OF KENNETH E. SPALDING, EXECUTIVE COMMITTEE, MAINE GROUP, SIERRA CLUB

Mr. SPALDING. Senator Wallop, Senator Bradley and Senator Mitchell, my name is Ken Spalding, resident of Wayne, ME, and volunteer with the Sierra Club. I am here representing the Sierra Club and its 356 members—excuse me, 356,000 members and to convey the Sierra Club's support of the legislative provision for fee perimeter boundary for Acadia National Park.

Acadia National Park is an unparalleled success story of private philanthropy. Private contributions of land provided for the protection of public use and enjoyment of a significant portion of the most spectacular coastal area in the eastern United States. The story, however, is not complete.

There remain a number of areas of Mount Desert and surrounding islands which, due to their ecological, scenic or historic values and/or their public use potential should be included within the park. Increased parcelization and extreme development pressures are combining, however, to make the addition of remaining significant areas both more critical and more difficult to accomplish through contribution.

The public interest, we believe, would be well served if the Park Service were provided with additional acquisition authority in order to complete ownership of ecosystems, protect critical scenic areas, and generally provide for the fulfillment of the unique potential of Acadia National Park. It is time to take a more deliberate approach to the planning for the future of the park, time to determine what boundaries and additions of lands would best serve the park and the American public.

Unfortunately, we don't believe that S. 720 does this. S. 720 does represent a significant accomplishment by Senator Mitchell and his staff to bring the local communities together in agreement on specifics of boundary legislation for Acadia National Park. The result of this agreement, however, is a bill based almost entirely on local desires to limit the growth of the park.

The last 12 years discussions and proposals to establish boundaries for the park have been predicated on the assumption that adding land to the park would be detrimental to the towns. This bill is the culmination of discussions which have gradually moved consideration of what would be in the best interest of the American public.

The Sierra Club believes that Congress is the appropriate forum to reintroduce consideration of the national public interest in the future of Acadia National Park, and we support the use of S. 720 as the vehicle to accomplish that purpose and to arrive at boundary legislation for Acadia National Park which will serve the long-term best interests of the American people.

The Sierra Club, together with the Natural Resources Council of Maine and The Wilderness Society, recommend modification of the administrative and boundary provisions of S. 720. Sarah Muyskens has already gone over some of those administrative provisions.

Relative to the park's boundaries, existing law authorizes the Secretary of the Interior to acquire by contribution more than 1.1 million acres. S. 720 would alter that authority to permit the net acquisition primarily by contribution or from willing sellers to be approximately 1,200 acres.

Sierra Club agrees that the boundary which includes 1.1 million acres is unnecessarily large and contains considerable acreage unsuitable to the park. However, limiting the park's potential to 1,200 additional acres is wholly inadequate. There are a number of parcels which are irrevocably tied to the quality and integrity of existing parklands and which would make obvious and highly desirable additions to the park. Such lands should be included in the boundary which is established.

The Sierra Club, The Wilderness Society and the Natural Resources Council of Maine strongly urge that an additional 20 parcels be added. You have that list in front of you and I will be willing to go over them if there's time. I will not go over them all now, however.

I will mention a couple, such as the Porcupine Islands. These islands are the most prominent feature from Cadillac Mountain and other high use areas in the park. Long Porcupine Island is currently owned by the Nature Conservancy and both the donor of the island and the Nature Conservancy would welcome the inclusion of the island in the park's boundary.

The towns would lose no taxes as a result of inclusion of this parcel. Another—some parcels on Somes Sound, this sound being the only fjord in the eastern United States, includes Sargent Point on the north side of Acadia Mountain, Mason Point and Squantum Point. In a 1928 report, Harvard professor of landscape architecture Charles Elliott recommended that this area become the gateway to the park, providing visitors with a dramatic introduction to the wonders of Mount Desert.

This site, Squantum Point, provides one of the most beautiful views on the island. The list includes both developed and undeveloped lands. We believe that inclusion of the developed parcels, together with permitting landowners perpetual use, would provide for the long-term best interest of the park.

In addition to adding these critical areas to the legislative boundary now, other areas and categories of land among the island of Hancock and Knox Counties need to be considered by the Park Service to determine their value for possible future addition to the park. Brownie Carson of the Natural Resources Council of Maine will discuss these recommendations in more detail.

In summary, the Sierra Club strongly advocates the addition of certain critical lands to the proposed boundary and that certain other lands be studied for possible future inclusion. Finally, the Sierra Club urges this committee to develop the national public interest perspective, which we believe is not currently reflected in S. 720, and with S. 720 as a vehicle provide the National Park Service with the authority to pursue the maximum potential for Acadia National Park's future.

Thank you for the opportunity to present this statement.

[The prepared statement of Mr. Spalding follows:]

STATEMENT
OF
KENNETH E. SPALDING
TO THE
SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION
CONCERNING
S-720
"A BILL TO ESTABLISH A PERMANENT BOUNDARY FOR THE ACADIA NATIONAL PARK IN THE STATE OF MAINE, AND FOR OTHER PURPOSES"
ON BEHALF OF THE
SIERRA CLUB

July 12, 1985
Washington, DC

Senator Wallop and members of the Committee, my name is Ken Spalding. I am a resident of Wayne, Maine and a volunteer with the Sierra Club. I am here representing the Sierra Club and its 356,000 members and to convey the Sierra Club's support of legislative provision for a fee perimeter boundary for Acadia National Park.

Acadia National Park is an unparalled success story of private philanthropy. Private contributions of land have provided for protection and public use and enjoyment of a significant portion of the most spectacular coastal area in the Eastern United States. The story, however, is not complete.

The magnetic beauty of the rockbound coast and seaside mountains in combination with the Park's proximity to the large concentrations of population in the Northeast have made Acadia National Park the second most highly visited National Park in the United States with nearly 4 million visitors in 1984. The land ownership of Acadia is slightly less than 35,000 acres giving it a ranking in size of 43rd of the 48 national parks in the country. Portions of this ownership are severely stressed from the high use.

There remain a number of areas on Mt. Desert and the surrounding islands which, due to their ecological, scenic, or historic values and/or their public use potential, should be included within the Park. Increased parcelization and extreme development pressures are combining, however, to make the addition of remaining significant areas both more critical and more difficult to accomplish through contribution.

The public interest would be well served if the Park Service were provided with additional acquisition authority in order to complete ownership of ecosystems, protect critical scenic areas, and generally provide for the fulfillment of the unique potential of Acadia National Park. It is time to take a more deliberate approach to planning for the future of the Park. Time to determine what boundaries and additions of lands would best serve the Park and the American public.

Unfortunately, S-720 does not do this.

S-720 does represent a significant accomplishment by Senator Mitchell and his staff to get the local communities to agree among themselves on the specifics of boundary legislation for Acadia National Park. The result of this agreement, however, is a bill based almost solely on local desires to limit the growth of the Park.

For the past dozen years, formal discussion and proposals to establish boundaries for the Park have been predicated on the assumption that adding land to the Park would be detrimental to the towns. This bill is the culmination of discussions which have gradually removed consideration of what would be in the best interest of the American public.

The Sierra Club believes that Congress is the appropriate forum to reintroduce consideration of the national public interest in the future of Acadia National Park and we support the use of S-720 as the vehicle to accomplish that purpose and to arrive at boundary legislation for Acadia National Park which will serve the long-term best interests of the American people.

The Sierra Club recommends modification of both the administrative and boundary provisions of S-720.

The most significant administrative provisions which we believe need to be revised include the following:

Section 2(a)(3) - requires that parcels slated for deletion from Park ownership must be exchanged within five years for parcels inside the boundary or the deletion parcels must be given to the local towns at no cost and without encumbrance. This "transfer after five years" provision should be deleted.

Section 2(d) - only a handful of the parcels to be included in the boundary would have any limitation on development and even those with limitations would be permitted significant construction before the Park Service would be able to use eminent domain authority to protect the lands designated for acquisition. The Sierra Club supports language which would allow landowners to continue existing uses in perpetuity, but feels strongly that lands included within the Park boundary should not be permitted to undergo development.

Section 4 - calls for the addition to the Park of an undetermined island for primitive camping, but requires unanimous approval by an advisory commission to make the addition. The legislation weighs the makeup of the advisory commission to local interests with 10 of 16 members being appointed by local towns and 3 appointed by Maine's Governor and approval would be virtually impossible. This veto power should be removed.

Section 5 - excludes High Seas and Schooner Head from the Park's boundary, but allows for their addition to the boundary if the owners willingly convey the land to the Park. Eminent domain authority is provided for conservation easements. These lands are highly significant to the Park and should be included within the boundary.

Section 9 - a report establishing transportation capacities for the Park is called for. The heavy use of the Park may be overloading a number of systems both inside and outside of the Park. A multi-faceted carrying capacity study should be conducted which includes the transportation system.

> Although the Sierra Club supports determination of national park boundaries based on the general public's interest rather than local interests, we suggest that, in the case of Acadia, some additional consideration be given to the financial effects on the towns. The Sierra Club advocates that the Park Service conduct a study of the general financial impact to the towns of future additions to Acadia National Park and that the Secretary of the Interior (the Secretary) make recommendations to Congress on means by which to adequately mitigate any net negative effect.

Recommendations for changes to the administrative provisions of S-720, both those which I have just mentioned and others, will be dealt with in more detail in proposed revisions which will be submitted to the committee shortly.

Relative to the Park's boundaries existing law authorizes the Secretary of the Interior to acquire by contribution more than 1.1 million acres. S-720 would alter that authority to permit the net acquisition, primarily by contribution or from willing sellers, of approximately 1,200 acres.

The Sierra Club agrees that the boundary, including 1.1 million acres, is unnecessarily large, however, limiting the Park's potential to 1,200 additional acres is wholly inadequate.

There are a number of parcels which are irrevocably tied to the quality and integrity of existing park lands and which would make obvious and highly desirable additions to the Park. Such lands should be included in the boundary which is established.

The Sierra Club strongly urges that the following parcels be included within the Park boundary:

- Schooner Head
- High Seas

- Sols Cliff
- proposed deletion #8DBH
- Porcupine Islands
- Thrumcap Island
- expanded buffer zone around Otter Cove
- Champlain Monument and land between Day Mountain and Route 3
- coast zone from Hunter Cove to Ingraham Point
- Bear Island
- Sargent Point
- north side of Acadia Mountain
- Mason Point
- Squantum Point
- west side of Seal Cove Pond
- west side of Hodgdon Pond
- Sargent Brook/Giant Slide Trail
- Marshall Brook
- Richardson Brook

Inclusion of these parcels would provide for public access to, and protection for, some of the most scenic coastal areas in the Eastern United States; for example, public access to views of the only fjord on the east coast.

Completion of Park ownership of the shores of ponds and streams which are currently half in and half out of the Park will provide for aesthetic and ecological protection as well as significant public recreational uses.

In addition to adding these critical areas to the legislative boundary now, other areas and categories of land among the islands of Hancock and Knox Counties need to be considered by the Park Service to determine their value for possible future addition to the Park. A list of areas recommended for study is attached.

In summary, the Sierra Club strongly advocates the addition of certain critical lands to the proposed boundary and that other lands be studied for possible future inclusion.

We recommend that modifications be made to certain administrative provision of S-720; for example, to provide for protection of lands included in the Park boundary from development.

We suggest that a complete carrying capacity study be performed and that the net economic impact to the towns of future Park additions be studied and the means developed to mitigate any such adverse effect.

The Sierra Club asks that a long-term view of the Park's future be taken. Such a view will allow for private landowners to continue existing uses in perpetuity, will allow for the inclusion of some lands with existing development, and will provide a mechanism to take a closer look at the potential of other areas.

Finally, the Sierra Club urges this committee to develop the national public interest perspective which is not currently reflected in S-720 and with S-720 as the vehicle, provide the National Park Service with the authority to pursue the maximum potential for Acadia National Park's future.

Thank you for the opportunity to present this statement.

A Summary of Major Points of the Joint Position of the Natural Resources Council of Maine, The Sierra Club, and The Wilderness Society on the Acadia National Park Boundary Bill

I. Proposed Changes to Administrative Provisions

A. The Secretary of the Interior be given eminent domain authority on all lands within the boundary, not only selected parcels.

B. New private development within the Park's boundary should be prohibited. Additions to existing structures should be handled by existing Park Service policies.

C. The five year limit on park land exchanges be deleted.

D. The Acadia Park Advisory Commission role be strictly advisory and be limited to a ten-year life as with other parks.

II. Proposed Additions to Park Boundary

A. Add Schooner Head
B. Add High Seas
C. Add Sol Cliffs
D. No deletion #8DBH
E. Add Long Porcupine Island
F. Add Burnt Porcupine Island
G. Add Thrumpcap Island
H. Expand buffer zone around Otter Cove
I. Add Champlain Monument and land to Route 3
J. Add the coast zone from Hunter Cove to Ingraham Point
K. Add Bear Island
L. Add Sargent Point
M. Add north side of Acadia Mountain
N. Add Mason Point
O. Add Squantum Point
P. Add west side of Seal Cove Pond
Q. Add west side of Hodgdon Pond
R. Add Sargent Brook/Giant Side Trail
S. Add Marshall Brook
T. Add Richardson Brook

III. Conservation Easements on Scoodic Peninsula

The Park Service should be given authority to accept conservation easements on Schoodic Peninsula.

IV. Proposed Studies (to be completed by 1991)

A. Carrying Capacity Study to examine the impact of park visitation on Acadia's natural resources and the quality of life in surrounding towns. Results from this study to be used to develop sound management policies.

B. Future Addition Study to determine if areas which lie outside the boundary qualify for addition to the Park due to important scenic, ecological, or cultural resources. Lands proposed for study include:

1. Corridors east and west of Otter Creek and Otter Cliff Road;
2. Coastal zone parcels and access from Indian Point to Seal Cove;
3. Parcels of Echo Lake and Long Pond shorefront and Carter Nubble;
4. Wetlands near Bass Harbor Marsh;
5. Island archipelago (more than the ten already in the bill);
6. Parcels of east and west shore of Somes Sound;
7. Fernald Point;
8. Big Rocks;
9. Long Heath added to Sunken Heath addition;
10. Proposed deletions, with the understanding that the Park Service will be part of the solution for a solid waste transfer station.

C. Economic Impact Study to evaluate the true economic relationship between local towns and the Park and to recommend mechanisms to compensate towns for any net adverse financial impact.

Senator WALLOP. Thank you, Mr. Spalding.
Mr. Carson.

STATEMENT OF EVERETT B. CARSON, EXECUTIVE DIRECTOR, NATURAL RESOURCES COUNCIL OF MAINE

Mr. CARSON. Thank you, Mr. Chairman, Senator Bradley, Senator Mitchell. Good morning. I'm Everett Carson, executive director of the Natural Resources Council of Maine, an independent conservation group established in 1959 and now representing some 5,000 members.

Maine has over 3,500 miles of coastline, all of it beautiful but none of it compares with the dramatic landscape of Mount Desert Island. Acadia Park is nothing short of spectacular and I would second the invitations extended by Senator Mitchell and Senator Cohen to visit this magnificent national park.

With 4 million visitors each year there is a clear State and national public interest in determining the future of Acadia. More than 50 million Americans live within a day's drive of the park, the second most visited in the country. The Natural Resources Council of Maine commends Senator Mitchell for his willingness to tackle a thorny issue, for attempting to succeed where others have failed. We wholeheartedly agree with Senator Mitchell that the time to resolve the Acadia boundary issue is now.

However, it is critical that the legislation you pass provides for a park boundary that encompasses Acadia's most significant natural features and gives the Park Service the tools it needs to protect all lands included within that boundary.

We refuse to accept the proposition that a healthy Acadia Park and prosperous local communities are somehow mutually exclusive. As a State conservation group we have made a sincere effort to understand the concerns of the local towns and the individual property owners and to develop proposals that will address these issues. We have also worked closely with national conservation interests and have developed a joint position, as you have heard, with the Sierra Club and The Wilderness Society.

I'd like to touch briefly on administrative changes and the fee boundary and then go to the future planning. With respect to administrative changes, it makes little sense to establish a park boundary without giving the Park Service the ability to properly manage and protect lands within it.

The park service must be given eminent domain authority on all of its lands and have the ability to prevent construction of undeveloped parcels, but I want to emphasize that we support the perpetual residence policies of the Park Service and only encourage Park Service action where major land use changes threaten the park's resources.

With respect to the fee boundary as proposed in Senator Mitchell's legislation, we do not believe it goes far enough to consolidate the park's current holdings and is inadequate to protect many of the most important features of Mount Desert Island. A quick examination of the boundary reveals its problems; many mountains, lakes, streams, trails and coastline are half in and half out—a park manager's nightmare.

Conservationists have painfully whittled down the list of parcels which we believe deserve to be in the park. We now have a list of approximately 20 essential parcels, many of them very small, which we believe are critical to the park's future.

With respect to planning, the unresolved boundary dispute has hung like a cloud over every effort to plan for Acadia's future. Planning is an ongoing process and therefore it is incumbent upon Congress to set in motion several studies which can provide the basis for future decisions. We propose a three-part study to be completed by the Park Service over the next 5 years.

The current bill provides for a transportation study, and that is a good start. But conservationists and local interests both have stated that far more needs to be done to help design wise management policies.

A carrying capacity study should be conducted to address concerns about the impact of visitor use on the park's natural resources and on the quality of life in the surrounding towns. An in-depth study would help the Park Service determine how to maximize visitor enjoyment of the park while protecting Acadia's most sensitive features and ensuring that the towns are not overrun by visitors and vehicles.

With respect to potential additions, the process of determining which lands ought to be included in this legislation, in that process, it has become clear to us that there were parcels and areas which require further study to determine their specific value to the park. These include unprotected lakeshores, tidal marshes, islands, and others. All are important, though in many cases full fee ownership may not be required to achieve management objectives.

Included in the study areas are all deletions proposed in this legislation. All current parklands were donated to the park with the understanding that they would be protected, and we think that should be given serious consideration.

At the heart of the boundary debate is the concern over the economic impact of the park on local towns, particularly with respect to tax revenues, yet there has never been a comprehensive and objective study conducted to better understand that economic relationship. We strongly urge that such a study be done, including recommendations on how to compensate towns for any lost tax revenues.

We have discussed innovative means to reimburse towns with Senator Mitchell and his staff and would be happy to share these ideas with the committee.

The towns, the people of Maine, and the American public all want to see Acadia Park legislation passed by Congress this year. The Natural Resources Council of Maine stands ready to work with you, the members of the committee, and with all other parties to bring about a sorely-needed resolution to this difficult issue. And I thank you very much for this opportunity to speak to you.

[The prepared statement of Mr. Carson follows:]

Natural Resources Council of Maine
271 State Street, Augusta, Maine 04330 207-622-3101

Testimony of
Everett B. Carson, Executive Director
Natural Resources Council of Maine
on S. 720,
Legislation to Establish an Acadia National Park Boundary

July 12, 1985

My name is Everett Carson. I am the Executive Director of the Natural Resources Council of Maine, an independent citizen's conservation group established in 1959. The Council represents more than 5000 members from the State of Maine and from 46 other states.

Maine has over 3500 miles of coastline - all of it beautiful. But none can compare with the dramatic landscape of Mt. Desert Island. Acadia National Park is nothing short of spectacular - a unique combination of rocky coast, mountains, lakes, wetlands, and forests found nowhere else on the East Coast. Rather than trying to describe this magnificent resource, let me urge you, who hold the responsibility for Acadia's future, to find the time in your busy schedules to come visit Mount Desert and see for yourself its natural wonders.

With four million visitors each year, there is a clear state and national public interest in determining the future of Acadia. More than 50 million Americans live within a day's drive of the park, the second most visited in the nation.

The Natural Resources Council commends Senator Mitchell for his willingness to tackle such a thorny issue - for attempting to succeed where many others have failed. We wholeheartedly agree with Senator Mitchell that the time to resolve the Acadia boundary issue is now. Development along the park's periphery over the past few years has provided us with a frightening glimpse of what the future may hold if Congress does not take prompt action. Each year residential and commercial development further encroaches upon the park's current boundary, threatening to degrade the experience for the millions who visit Acadia.

However, it is critical that the legislation you pass provides for a park boundary that encompasses Acadia's most significant natural features and gives the Park Service the tools it needs to protect all lands included within that boundary. We refuse to accept the proposition, advanced by some, that a healthy Acadia Park and prosperous local communities are somehow mutually exclusive.

In fact, we would argue that protecting the integrity of Acadia is in the long term economic interest of local communities and the entire State of Maine. Acadia's four million visitors spend hundreds of million dollars in Maine each year. Any deterioration in the quality of the park will inevitably have repercussions on local and state tourism.

The Acadia Park boundary issue has been described as a conflict between national and local interests. As a state conservation group we have made a sincere effort to understand the concerns of the local towns and individual property owners and to develop proposals that will address these issues.

We have also worked closely with national conservation interests and have developed a joint position with the Sierra Club and the Wilderness Society. Our position calls for significant changes in the legislation proposed by Senator Mitchell - modifications which we believe are vitally needed to ensure that Acadia will be protected for future generations.

I. Administrative Changes (to be presented in detail by Sarah Muyskens of The Wilderness Society)

It makes little sense to establish a park boundary without giving the Park Service the ability to properly manage and protect lands within it. Under the proposed legislation, the Park Service would be unable to prevent a McDonalds from being built within the park. We recognize that towns bordering the park are not likely to approve of such development, but local zoning provisions have severe limitations and can easily be changed or circumvented.

The recently constructed "castle" on Schooner Head, one of Mount Desert Island's most scenic headlands, dramatically points out the devastating aesthetic impact which one ill-conceived, yet locally approved house can have on the park. The Park Service must be given eminent domain authority on all its lands and have the ability to prevent construction on undeveloped parcels.

I want to emphasize that we support the perpetual residency policies of the Park Service and only encourage Park Service action where major land use changes threaten the park's resources.

II. Establishment of a Fee Boundary (to be presented in detail by Ken Spalding of the Sierra Club)

The fee boundary proposed in Senator Mitchell's legislation does not do enough to consolidate the park's current holdings and is inadequate to protect many of the most important features of Mount Desert Island. A quick examination of the boundary reveals its problems. Many mountains, lakes, streams, trails, and coastline are half in the park and half out - a park manager's nightmare.

Such areas are obvious sites for new developpment. Who wouldn't want a view from his front porch into Acadia National Park. The problem is that four million visitors will be looking at roof tops, tennis courts, condominiums or hotels rather than the pristine coast and mountains they came to find.

Had Acadia National Park been planned eighty years ago, all of Mount Desert Island would have been included within its boundary. This obviously is no longer an option. However we must not disregard the park's needs and draw a boundary based on the desires of selected local interests, at the expense of the integrity of the park and the enjoyment of its visitors.

Conservationists have painfully whittled down the list of parcels which we believe deserve to be in the park. We now have a list of twenty essential parcels, many of them very small, which we believe are critical to the park's future. At the top of the list are the Schooner Head and High Seas, coastal headlands which have been included in every park planning effort to date. To exclude them from the park and allow for their further development would indeed be a tragedy.

III. Planning for Acadia's Future

The unresolved boundary dispute has hung like a cloud over every effort to plan for Acadia's future. This legislation, regardless of its final form, will only address the most immediate threats to the park. Planning is an ongoing process, and therefore it is incumbent upon Congress to set in motion several studies which can provide the basis for future decisions. We propose a three-part study to be completed by the Park Service over the next five years:

Carrying Capacity

The current bill provides for a transportation study and that is a good start. But conservationists and local interests both have stated that far more needs to be done to help design wise management policies.

A carrying capacity study should be conducted to address concerns about the impact of visitor use on the park's natural resources and on the quality of life in surrounding towns. An in-depth study would help the Park Service determine how to maximize visitor enjoyment of the park while protecting Acadia's most sensitive features and ensuring that the towns are not over-run by visitors and vehicles.

Potential Additions:

In the process of determining which lands ought to be included in this legislation, it became clear to us that there were parcels and areas which require further study to determine their specific value to the park. These include unprotected lakeshores, tidal marshes, islands, coastline, and bogs (a list of which is attached to my testimony). All are important, though in many cases full fee ownership may not be required to achieve management objectives.

Included in the study areas are all deletions proposed in this legislation. All current park lands were donated to the National Park with the understanding that they would be preserved for public use. It is therefore incumbent upon the Park Service and Congress not to delete any lands from the park without very good reason to do so.

Economic Impact:

At the heart of the boundary debate is the concern over the economic impact of the park on local towns, particularly with respect to tax revenues. Yet there has never been a comprehensive and objective study conducted to better understand that economic relationship. We strongly urge that such a study be done including recommendations on how to compensate towns for any lost tax revenues. We have discussed innovative means to reimburse towns with Senator Mitchell and his staff and would be happy to share these ideas with the committee.

Each of these studies should be accomplished expediously with full public participation. We are confident that the result of such efforts will greatly benefit the park and the towns.

Almost one hundred years ago, a writer for Forest and Garden magazine, concerned about logging on Mount Desert Island wrote:

> "The authorities do not realize that the beauty of the island is its real value. Some resolute policy must be adopted for protecting the scenery of Mount Desert, or it will be robbed of its peculiar charm and be converted into inhospitable waste."

Today it is motels, subdivisions, and condominiums, not logging, that threaten Acadia's wonders - but the words still ring true.

The towns, the people of Maine, and the American public all want to see Acadia Park legislation passed by Congress this year. The Natural Resources Council stands ready to work with you and all other parties to bring about a sorely-needed resolution to this difficult issue.

Thank you.

A Summary of Major Points of the Joint Position of the Natural Resources Council of Maine, The Sierra Club, and The Wilderness Society on the Acadia National Park Boundary Bill

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9. Long Heath added to Sunken Heath addition;
10. Proposed deletions, with the understanding that the Park Service will be part of the solution for a solid waste transfer station.

C. Economic Impact Study to evaluate the true economic relationship between local towns and the Park and to recommend mechanisms to compensate towns for any net adverse financial impact.

Senator WALLOP. Thank you, Mr. Spalding.

Destry, welcome. Good morning.

STATEMENT OF T. DESTRY JARVIS, VICE PRESIDENT, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. JARVIS. Thank you, Mr. Chairman. It's always a pleasure to be back before the committee, and in this case with a sense of relief that I appear here after having worked on this proposal for 10 years. It appears there is a good chance of some progress and success this time around.

I would say that Acadia National Park should be viewed as one of the most spectacular units of the system, rivaling even your own Grand Tetons, Mr. Chairman, in its grandeur. A bit of background is important here.

The Park Service has been seeking a boundary and acquisition authority for this area for over 20 years. In 1976 they proposed a draft plan for the area which met a great deal of opposition and then took the unprecedented step of bringing in a professional mediator funded by the Ford Foundation to try to seek some resolution. I had the opportunity to participate as a representative of a national organization, the National Conservation organization, in that process, which took most of the year of 1979.

The result of those many lengthy meetings was an informal agreement which was ready to be signed by all participants, but at the last minute that did not occur because at the same time Senator Muskie was leaving the Senate to become Secretary of State and a formal signing ceremony was never put together, and the delay then splintered the moment of agreement and it was never reached again.

However, key elements of that agreement are embodied in S. 720, although I must say there have been changes of several sorts, both some areas added to the park through exchange and others in this bill as well as the acquisition language significantly modified, so that this bill does not accurately reflect the mediated agreement, nor perhaps should it.

That was simply a historical note. I wanted to speak particularly of two areas that the bill leaves out of the boundary that we think very strongly should be within. That is Schooner Head and High Seas. I have a series of photographs for the committee's perusal taken of Schooner Head from 1966, to 1976, 1983 and as recently as October of 1984, which I think you'll find show a real tragic loss for the park.

In particular, the bicentennial issue of July 1976 of West Virginia State magazine has a full-page color photograph of Schooner Head in the undeveloped state. That issue was devoted to scenes of the spectacular places around the country. And it is a tragic loss, and even though development has occurred there we think it should be added to the boundary and eventually acquired and further development prevented. It would not be the first time that the Park Service has been asked to restore a beautiful area.

You raised a question, Mr. Chairman, about the extra island, the unspecified island. A bit of history on that is important here in that in the Park Service's earlier proposal a specific island was identified. In fact, several specific islands were identified, each one of which was controversial and each one of which was rejected.

The thought here was that the Park Service, in consultation with the advisory commission, could come up with an island that folks could agree to and that one additional island for remote camping experience would be appropriate. If the committee does not wish to leave it unspecified, then perhaps you should authorize a study to find an island and come back at some future point. But at least I think it's important that an additional island other than those which are listed specifically, which are not suitable for remote camping, would be appropriate.

High Seas is also important to be added back into the park boundary. Both High Seas and Schooner Head are highly visible from various points on the ocean drive. In fact, all of those pictures of Schooner Head were taken from the park's Anemone Cave Overlook, which is one of the most popular stops for everyone driving through that park on the ocean drive.

I would like to speak also and perhaps clarify a comment that Superintendent Wrye made earlier in response to Senator Bradley's question. Section 2(d)(4)(A) of the bill, in the middle of page 5, is an unprecedented provision in defining as incompatible the allowing of a single family residence to be constructed. Other provisions here are in fact contained in the so-called Cape Cod formula that applies in other parks. But that particular provision, allowing a single family residence to be developed, is not found elsewhere.

Finally, I'd like to speak to the so-called compensation provisions of the bill. I think in the mediation process and spending a lot of time with members of the towns up there I came to realize that Acadia is indeed different than many other parks in the sort of because it's an island and the sort of relationship that the park has with the towns and the impacts that visitation provide on that island.

Some recognition that the bill doesn't adequately do it, doesn't adequately compensate the towns relative to other parts of the system, I think is important, and I think the committee ought to look at either these provisions or some other mechanism to recognize the fact that PILT isn't adequate.

Thank you for the opportunity to speak.

[The prepared statement of Mr. Jarvis follows:]

STATEMENT OF T. DESTRY JARVIS, VICE PRESIDENT
NATIONAL PARKS AND CONSERVATION ASSOCIATION

before the

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATERS

ON S.720

July 12, 1985

Mr. Chairman and other distinguished members of the Subcommittee, my name is Destry Jarvis, I am Vice-President of the National Parks and Conservation Association located at 1701 18th Street NW, Washington DC. We appreciate the opportunity to appear before the Subcommittee today to testify on S. 720, a bill to establish a boundary for Acadia National Park.

It is with a particular sense of accomplishment, if not relief, that I appear before the subcommittee today to testify on this important boundary provision for Acadia National Park. For nearly ten years, I have personally worked on plans, recommendations, and proposed legislation for establishment of a boundary and acquisition authority at Acadia National Park. The inclusion of Acadia National Park in the system and its evolution to present day status is particularly unique. Beginning in 1916 with the proclamation of the Sieur de Monts National Monument, the park has evolved though a series of donations of land, from philanthropic groups or individuals. The boundary of the park has changed at least 15 times over the course of its history, with each change occurring as the result of particular donations. Unlike most parks, where the Park Service is given a boundary with authority to purchase within it, Acadia has evolved in a helter skelter fashion. It is long since time for the Congress to rectify the land status of Acadia National Park and authorize traditional boundary and acquisition authorities for this spectacular resource area.

Relying solely on the good will of local landowners to make donations to the park, Acadia has suffered from the inability to adequately protect scenic vistas, watersheds, and wildlife habitat. Scenically, Acadia is one of the most unique parks in the system, rivaling even the Grand Tetons in its awe-inspiring majesty. In order for the intent of Congress in setting aside this area to be fully realized, enactment of S.720, with several essential amendments, is both urgent and necessary.

Before describing the necessary amendments, one brief bit of background is necessary on the previous attempts to reach agreement on a management plan and implementing legislation for Acadia. Over the past 20 years the National Park Service has made several ill-fated attempts to produce and approve a management plan for the park which necessarily incorporates proposed legislation to achieve their stated goal of protecting the necessary land base for the park. These proposals ranged

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from the extremes of an early 1960s draft which called for protection of the entire Acadia archipelago of islands to a 1976 draft which contemplated essentially no acquisition.

Because of the lack of sufficient consensus of local, state and national support for any of the these previous proposals, the National Park Service in 1978 took the unprecedented step of bringing in a professional mediator, funded by the Ford Foundation, in an attempt to seek agreement among the disparate parties. During most of 1979, I had the good fortune to be a formal participant in the mediation process as the representative of a national conservation organization. Surprisingly to most of the participants, this mediation process was largely successful in bringing new understanding to all of the participants of the needs of both the national park and the communities which surround it. Indeed, an agreement was reached in December of 1979 and a document prepared which all participants agreed to sign.

Unfortunately, a signed document was never produced, primarily because of the departure of Edmund Muskie from the U.S. Senate to be Secretary of State which occurred almost simultaneously with completion of the mediation process. Subsequently, changes in leadership among several of the towns, and the land status of several key parcels relating to the park boundary shattered this fleeting moment of unity.

More recently, substantial changes in key parcels proposed for addition to or deletion from the park have rendered the mediated agreement null and void. Although S.720 reflects several elements found in the mediated agreement, other key provisions have been deleted or significantly altered in the bill to the point that it should be judged on its merits, without regard to the mediated agreement.

One of the key goals as stated by the National Park Service in its planning document, and one which is central to NPCA, is the desire to adequately protect those portions of the rocky coastline of Mount Desert Island within Acadia National Park and the outer islands of the archipelago which are essential both scenically and ecologically to the integrity of the area. In this regard, two key areas, Schooner Head and High Seas, have been deleted from the boundary provisions of S.720 and should be restored by amendment to full park status.

The tragic partial development on the highly visible and formerly highly scenic Schooner Head is a critical example of the extreme problems caused for the integrity of the park by the delay in enactment of adequate legislation to establish boundary and acquisition authorities at Acadia National Park. I have with me for the Committee's perusal a series of photographs of Schooner Head taken in 1966, 1976, 1983 and October of 1984 which show this scenic area in its tranquil beauty as well as the recent destructive development which has occurred there. It is NPCA's firmly held view that despite this development, Schooner Head must be included in the boundaries of Acadia National Park with full acquisition authority. This will not be the first time nor will it likely be the last, that the National Park Service is called upon to restore a key scenic feature within a national park. Similarly, the High Seas property should be included within the boundary and protected from adverse development through acquisition, the historic house on the property could be leased back to the Jackson Laboratory for continued use as a dormitory, with which we have no objection.

Additional substantive amendments to S.720 which are necessary do not relate to the boundary per se but to the acquisition authority and the restrictions upon it which the provisions of the bill now impose. Since these proposed changes are numerous and detailed, I have rewritten the bill incorporating these changes and have provided for the Subcommittee a copy not only of a clean draft, but a marked up version of S.720 readily to indicate where the changes occur.

In summary, the changes which we recommend would give the National Park Service the same acquisition authorities at Acadia which it enjoys in virtually every other unit of the National Park System where purchase of private land is necessary. In particular this includes authority to utilize eminent domain acquisition means for any parcel within the authorized boundary if inappropriate or incompatible development is proposed on any particular tract. The second major recommendation is for the inclusion of the Schoodic Peninsula among those areas in Section 3A where the Secretary is authorized to acquire conservation easements. I believe this was simply an oversight in the drafting of S.720, since the Schoodic Peninsula is an integral part of Acadia National Park and since the acquisition of conservation easements there would materially enhance its value as a unit of the National Park System.

A third areas of change in the bill deals with the role of the Advisory Commission established thereby, restricting it to the purely advisory functions to which all other National Park Service Advisory Commissions are limited. This would include elimination of the requirement for submitting justification to the commission prior to acquisition of each easement tract and elimination of the commission's veto over the acquisition of one additional island. Finally, the commission's life should be limited to a 10-year span, which is a standard provision when advisory committees are established for parks with major new authorities or in this case, more acquisition programs.

Finally, Mr. Chairman, there are several provisions in the bill which have evolved from concerns of the towns that the presence of the park and its visitation creates some uncommon burdens for the municipal services of the towns on Mount Desert Island. The bill provides several tracts of land and several monetary compensation provisions as well as authorizing a carrying capacity study relating to transportation problems which attempt to address these perceived problems at Acadia National Park.

Normally, when the NPS acquires privately owned properties removing it from the taxrolls, it is assumed the the Payments In Lieu of Taxes Act provisions will provide necessary compensation. However in the unique case of Acadia National Park, the established PILT formula is not adequate for two major reasons. First, towns are limited to a small tax base from real estate taxes because the island itself is small, and because prior donations to Acadia National Park have already removed certain lands from the tax roles. Second, the tracts that remain in private ownership are extremely valuable with high resale values and consequent high real estate taxes paid. Whereas in more rural or western settings the PILT formula is adequate, if not overly generous, compensation to local governments, several parks in the east and in Acadia National Park in particular, the PILT formula is highly inequitable. Thus various compensations provided in S.720 were devised by the towns, largely during the mediated agreement process, as a alternative means of compensating for the loss of tax base. NPCA agrees with the inequity of the present situation and urges the committee to seriously consider the enhanced compensation package. Furthermore, with the conservation easement acquisition program authorized by Section 3, we would recommend that it is appropriate to extend Payments in Lieu of Taxes to the affected towns wherever easements acquired reduce the property tax payments by more than 30%.

In conclusion, Mr. Chairman, Acadia National Park, one of the truly spectacular units of the system, deserved to be raised from its second class status in terms of land protection authorities, by enactment of S.720 with the previously recommended amendments. We urge the committee to move swiftly on the bill and again express our appreciation for the Subcommittee holding this hearing.

Senator WALLOP. Thank you, Destry. Those pictures that you distributed to us show, I think, what you want to show. I mean, they are a dramatic demonstration of what's happened. They also are sort of a dramatic demonstration of how that clock is going to be extremely difficult to turn back.

Mr. JARVIS. Exactly.

Senator WALLOP. I don't know what we can do about what has been done. I don't think much.

Mr. JARVIS. There is one unusual mechanism which has precedent in this committee but not one that's very popular, and that is to provide a legislative taking. I wouldn't necessarily suggest that in this case, but there is a mechanism.

Senator WALLOP. At least let me get out of the room before you do it. [Laughter.]

Mr. JARVIS. Perhaps there is another mechanism that can tie. It is a problem that recurs repeatedly every time a new acquisition is authorized and the delay between authorization and appropriation is severe and increasingly so.

Senator WALLOP. You would agree with me, I think, that that's not unique.

Mr. JARVIS. No, it's not unique in Acadia; that's certainly true.

Senator WALLOP. You probably would not agree with me but I will state anyway that many of us don't believe that PILT is an adequate substitute for the other existing tax base that would be there were it not—it's a complication that all communities, all counties near parks or near Federal lands have, and that's one of the things we live with and try to balance amongst them.

Bill, do you have any?

Senator BRADLEY. Mr. Chairman, I must say that these pictures give one pause on that single family structure. I mean, my God, this looks like a hotel. If one envisions natural land on which you're going to allow a single family dwelling and you think it's like a little cabin in the forest, this picture certainly refutes that.

So under the legislation you could continue to have in these areas a whole subdivision of these kind of homes, right?

Mr. JARVIS. Well, each tract could have one.

Senator BRADLEY. We have River Oaks North in the national parks. I think their testimony has been very helpful, and these pictures certainly help one who didn't quite envision the impact of a single family dwelling.

Thank you.

Senator WALLOP. George?

Senator MITCHELL. Thank you, Mr. Chairman.

I might say that these photographs in an area in which I'm very familiar are the best possible argument for enactment of this legislation. Had a bill been enacted in the 1970s when the mediated agreement was reached and almost agreed to, the development shown here would not have occurred. Schooner Head would have been in the park.

But some people were not satisfied with 90 percent of what they wanted; they wanted 100 percent, so no bill was passed. This development at Schooner Head has occurred, and I predict to you here and now that if we do not pass a bill this time the inevitable result will be the repetition of this development in many other areas.

That is why we ought to have a bill and these photographs are the best possible evidence that could be submitted for the need to support this legislation.

I would like to make one comment and ask a question of the panel.

First, I thank Mr. Jarvis very much for his testimony, for his cooperation, for his participation in this effort. More than any other person he has a history of effort to try to resolve this problem.

I note with concern Mr. Spalding's statement that "it is time to take a more deliberate approach to planning for the future of the park." This process has been going on for 25 years. I personally have been involved for over 5 years. I have gone to Hancock County and held numerous public meetings. This bill is the fourth draft that I have personally been involved in writing.

Not once has any representative of the Sierra Club, The Wilderness Society or the Maine Natural Resources Council come to any of those meetings, even though I have invited them to do so. I solicited the opinion of the Sierra Club orally. I wrote a letter to the Sierra Club asking for their comments on legislation. I never received them until after this bill was introduced.

As far as The Wilderness Society is concerned, Miss Muyskens, I welcome your comments. I merely point out for the record that the first time I heard from The Wilderness Society was at 5:00 in the afternoon yesterday, less than 24 hours before this hearing began, over 5 years after I became involved in this process.

And so while we welcome your views and I assure you I and I know the members of the committee will give them serious consideration, I raise a question as to how you can say we ought to take a more deliberate approach. Twenty-five years of effort is a deliberate approach. Five years of negotiation by me is a deliberate approach. Four revisions of this bill is a deliberate approach.

And I say to you now what I've said to you privately on several occasions, look at these pictures that Mr. Jarvis has given us, and if we don't have a bill this time, I predict to you it will be many decades before we ever reach this point again, and what you see in those photographs will be repeated over and over and over again in this area.

I ask everyone to consider nobody gets what they want out of this bill completely, I ask whether or not you are prepared to sacrifice getting a bill at all. I you are, I suggest that you see what happens.

I just have one question I'd like to ask regarding the additions. You have proposed 20 additions to the park. Now I would like to ask you a series of questions. Can you tell me and the committee members how many acres aggregate are included in those additions?

What would the tax loss be to the towns as a result of those additions? How many of those parcels are developed and what would the cost of acquisition be to the Park Service?

Mr. SPALDING. We'd be happy to submit at least a partial answer to that question in writing.

Senator MITCHELL. All right. To the extent that you can, because I think that's relevant information for the committee to consider.

Thank you, Mr. Chairman.

Senator **Wallop**. Thank you, George. Thank you all very much. I appreciate your testimony.

The second panel, Mr. Chadbourne Gilpatric, the town of Mount Desert; Richard Plante, town manager, Bar Harbor; Mr. Kenneth Smith, chairman of the Bar Harbor Town Council; Mr. Mike Knowles, the town of Southeast Harbor.

Mr. Gilpatric.

STATEMENT OF CHADBOURNE GILPATRIC, TOWN OF MOUNT DESERT

Mr. **Gilpatric**. Mr. Chairman and Senator Mitchell, my name is Chadbourne Gilpatric. I'm chairman of the Planning Board, town of Mount Desert and I have been asked by the Board of Selectmen of the Town of Mount Desert to represent that town in their comments on this bill before you, S. 720.

The town of Mount Desert and the Board of Selectmen unanimously and wholeheatedly support this legislation and appreciate the effort which Senator Mitchell and the staff has put into bringing it to this present point. There are a few points which the town of Mount Desert would like to see considered in amending the present bill. These are not major points, but they should be mentioned.

Let me introduce them, however, with the information that of the total extent of Acadia National Park on Mount Desert Island 30 percent of the park is in the historic territory of the town of Mount Desert, and it so happens that 30 percent of the area of the town of Mount Desert is park. And, finally, the principal donors of the land which now make Acadia National Park have been residents of the town of Mount Desert.

The town of Mount Desert feels strongly that the limitation in acquiring land by the park should continue the requirement of a willing owner, and the town would be reluctant to support the bill if that requirement was not intact. The town would also like to have amplified the power of the Secretary to designate other areas in the park as appropriate for the landfill transfer site which would be of interest to the park and the towns, but going beyond the specific designation of the Patty Hill tract.

There is one amendment, an addition, a slight one but an important one, that we would like to see added, namely that in one part of the town of Mount Desert a historic fishing village was cut off from direct access to the sea, and we'd like to see a small addition in the section dealing with lands to be excluded from the park for a short right-of-way to the sea from this village and this will be addressed more specifically by another member to come later.

In view of comments already made before you by other witnesses I'd like to address myself to two points. One is in Mr. Jarvis' written submission he recommended curtailing or limiting the duration of the advisory commission to 10 years. The town of Mount Desert thinks one of the most important provisions of this bill is the establishment of an advisory commission. It's a vital vehicle for the effective cooperation and interaction of the park and the surrounding towns.

We all know that the park grew out of the four existing towns on the island and there has been far from satisfactory interaction and interrelation between the park and those towns, and this proposed advisory commission would give a badly needed and effective vehicle to take care of future relationships, and many of the problems which really cannot be handled in national legislation or in specific terms on a national scale.

So we strongly recommend the inclusion of that provision, but with no limitation of time on the duration of the commission.

Lastly, I'd like to make a comment which has not been made in writing, but about various conservation and environmental organizations which tend to come in late and offer very ambitious and exceedingly costly proposals. One of them stated before you that they have a sincere concern with local conditions. The concern may be sincere, but it is terribly inadequate.

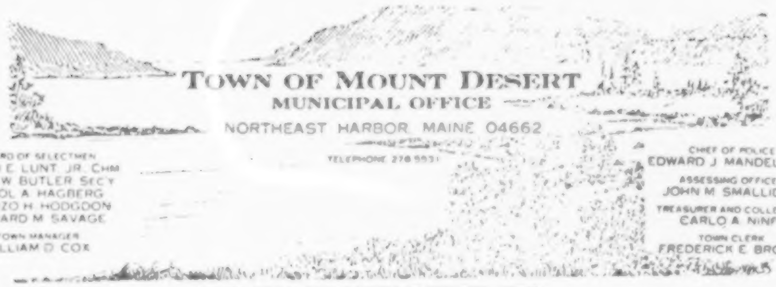
They pay very little close attention to the municipalities, the ordinances of the town of Mount Desert, the actual conditions. They look at maps in distant places, whether it's the capital of Maine or the capital of Massachusetts, and their intimate working knowledge of what goes on in these towns.

In the town of Mount Desert, a major effort is put into very careful land use regulations. We're very proud of our ordinances that regulate the use of land and we have resource conservation districts. We have 18 such areas in our town which are as carefully guarded as anything in the national park. And what's more than that, the town supports this and funds this, and we should also know that there's closer attention to protecting valuable lands in the town of Mount Desert than the budget or the staffing of the park permits within the park.

And for these organizations to suggest that the park add more and more lands for the kind of treatment which are now given to some of the most precious lands in the park, which is benign neglect, is hardly an acceptable recommendation.

Thank you.

[The letter from the selectmen of the town of Mount Desert follows:]



TOWN OF MOUNT DESERT
MUNICIPAL OFFICE
NORTHEAST HARBOR MAINE 04662
TELEPHONE 276 5531

BOARD OF SELECTMEN
DURLIN E LUNT JR CHM
JOHN W BUTLER SEC'Y
KAROL A HAGBERG
ALONZO H HODGDON
RICHARD M SAVAGE
TOWN MANAGER
WILLIAM D COX

CHIEF OF POLICE
EDWARD J MANDELL JR
ASSESSING OFFICER
JOHN M SMALLIDGE
TREASURER AND COLLECTOR
CARLO A NINFI
TOWN CLERK
FREDERICK E BROWN

ADDRESS OFFICIAL COMMUNICATIONS TO NORTHEAST HARBOR

July 8, 1985

Senator Malcolm Wallop
Chairman of the Senate Subcommittee on Public Lands, Reserved
Waters & Resource Conservation
U.S. Senate
Washington, D.C. 20510

Dear Senator Wallop:

The purpose of this letter is to convey to you, in writing, the position that the Town of Mount Desert Board of Selectmen has taken on the proposed Federal legislative bill to provide a Congressionally established boundary for Acadia National Park in the State of Maine.

Although Senate Bill 720 and House Bill 1685 in the first session of the 99th Congress have our unanimous and wholehearted support as it is presently written, we, as Selectmen, have certain concerns that we wish to call to your attention for your serious consideration and presentation to your colleagues:

Section 1. Senate Bill S. 720 Establishment of Permanent Boundaries

The Town of Mount Desert was given by the Superintendent, ANP a map which depicted the permanent boundary for Acadia National Park on map numbered 123-80,000 D, and dated April 1985, not 123-80,001 H, and dated February 1985.

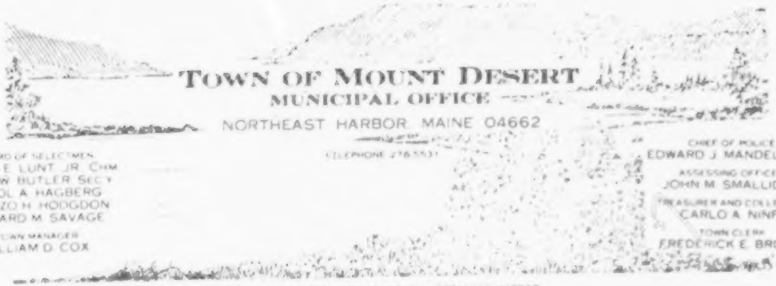
Section 2. Acquisition of Lands

The Town of Mount Desert supports this section as it is presently written providing that sub-section (d) relative to the limitation on condemnation requiring the owner's consent is retained in the act. If this provision is not retained, the Town of Mount Desert would like to go on record as being opposed to the passage of this bill.

Sub-section (c) relative land for a solid waste transfer station should be amended to indicate that the Secretary is authorized and directed after consultation with the Acadia National Park Advisory Commission, established by section 6(a) of this Act, to designate suitable land within the park boundary that may be used and developed by the park and any Town which so desires as a solid waste transfer station, etc. The Secretary may if he so desires, transfer or convey such land, without monetary consideration, to the Town in which the transfer station is located.

Section 5. Lands Excluded from the Park

It is requested that a new subsection (d) be inserted and read as follows:



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ADDRESS OFFICIAL COMMUNICATIONS TO NORTHEAST HARBOR

(d) Town Right of Way to Otter Creek

The Secretary is authorized and directed to convey and/or grant to the Town of Mount Desert the right to establish a right of way and landing from Grover Avenue, in the Village of Otter Creek to Otter Cove.

This right of way and landing has been used for over twenty (20) years customarily and traditionally by the fishermen and others in the area as an access to the sea. If this access is not granted it will have an adverse economic impact on the livelihoods and activities of many of the residents of the area.

The voters of the Town of Mount Desert, of which the village of Otter Creek is a part, at their Annual Town Meeting in 1978, unanimously voted to support this request. At a recent meeting, we, the members of the Board of Selectmen, unanimously voted to support this request because of its importance to the people of Otter Creek and Mount Desert and to petition its approval by the Congress of the United States.

Section 6. Acadia National Park Advisory Commission

The Town of Mount Desert wholeheartedly supports the establishment of this commission as it provides the vehicle to improve and develop the best of relations between the park and the surrounding Towns.

In addition, the Town of Mount Desert wholeheartedly supports the requests for revisions of all the other Towns on Mount Desert and requests their serious consideration.

In conclusion, we wish to thank you and the members of your staff who have done an outstanding job in developing this worthwhile project. Please continue your support until its enactment. We would be very appreciative of your efforts to keep us informed of the progress of this bill in the legislature as we feel most confident of your efforts on behalf of the people in this area.

Sincerely,

Chairman

Richard M. Savage

Alonzo H. Hodgdon

Board of Selectmen

Senator **WALLOP**. Thank you, Mr. Gilpatric.

Mr. Plante.

Mr. **PLANTE**. Mr. Chairman, with your permission I'd like to reverse the order with Mr. Smith and allow him to speak first.

Senator **WALLOP**. By all means.

STATEMENT OF KENNETH E. SMITH, CHAIRMAN OF THE TOWN COUNCIL, BAR HARBOR, ME

Mr. **SMITH**. Thank you, Senator Wallop. We would like to thank you for the opportunity to be here to present our testimony to you here today. Senator Mitchell, it's always a pleasure to be in your company.

The town of Bar Harbor does indeed want a permanent boundary for Acadia National Park. We feel Senator Mitchell's bill is the best way that we're going to achieve that boundary. The bill is a result of 20 years of negotiations and compromises between the local governments and the National Park Service. I'm here to inform you that Bar Harbor supports the legislation as it is now, with maybe a few exceptions.

You may hear testimony here today from some people which may indicate that the residents of Bar Harbor are not totally happy with the legislation and that probably is true. As you well know, there's no way you're going to keep everybody happy, but through the meetings, the hearings, and so forth I feel that the community of Bar Harbor supports this legislation. The Town Council adopted a unanimous vote in support of this legislation also.

I think it's important that the committee understands that this is the first time in 20 years that all of the neighboring communities bordering the National Park Service and the National Park have been able to agree on a common framework which has resulted in the legislation before you today.

I would hate to see an eleventh hour attack on this legislation by any party, threaten this in any way. Today marks a milestone in the process of establishing a permanent boundary and I sincerely believe that this bill is in the best interests of my community and the Park Service, and I would urge favorable action by the committee.

Thank you.

Senator **WALLOP**. Thank you very much, Mr. Smith.

Mr. Plante.

STATEMENT OF RICHARD M. PLANTE, TOWN MANAGER, BAR HARBOR, ME

Mr. **PLANTE**. Mr. Chairman, Senator Mitchell, I would concur with the remarks by Mr. Smith. I think it is unfortunate that eleventh-hour responses—I concur with the statement and comments by Senator Mitchell that there have been numerous public hearings, numerous meetings, and has been ample opportunity for many people, for all people, to express their opinions to him and to express them publicly.

Bar Harbor does support in concept this bill. We share the concerns, some of which you have already heard and I wont attempt to repeat most of them, and they are also contained in the joint statement submitted by Mr. Smith and myself.

I think that the committee and I would urge that the committee approach this bill recognizing that it is a compromise and that we need to look at it as a total package. We understand, we have been told that there are some concerns about how the advisory commission is appointed. As long as there is local input into that process, Senator, we're not concerned. We feel that there is a need for an advisory commission to maintain and improve the communications between the communities that are an integral part of this island and this park, to maintain those relations, to improve those relations.

The eminent domain language that is in here, I would hope the committee would recognize, is also part of the compromise. The provisions for the transfer station, the Park Service will use that facility. They have indicated 5 to 10 percent, but it is as important to them as it is to any of the other towns on the island.

The impact payments. Earlier one of the witnesses indicated that studies have concluded that the towns on the coast and the towns bordering the National Park have a tendency to fare better than many of the others. I'd like to see the source of that information. We have seen studies and that is inconclusive. Most of the studies have indicated that our budget, for example, is considerably higher than comparable-sized towns that do not border a national park.

That does have an impact. It has an impact on our emergency services, our police force, our fire department, our ambulances. The park is located within—we maintain the roads that provide access to the park. There is an impact and we feel that the $2 million that is asked for in this bill is a token recognition of the contributions that have been made to the National Park by the communities over these many years.

The transfer of properties and specifically the sewage treatement plant in Bar Harbor, the ballfields in Bar Harbor, we feel there is no reason whatsoever why the Park Service or any agency should hold onto those for 5 years or 8 years or longer, unless they purport to operate them for us—and we might consider that. The transfer of the former National Park headquarters, which was omitted in the Park Service testimony, is something that has been recognized for some time as call it, a gentlemen's agreement, if you will.

There have been strong indications for a number of years that this piece of property would be turned over to the town and that at this point it is very important to us because we are in dire need of a new municipal complex and this is one of the sites that has been considered.

Schooner Head and the High Seas area. Again we're talking about compromise language. I think that we recognize that this is all part of a total package. Schooner Head in particular is developed. It is not what it was 10, 15 or 20 years ago. There are residents there. They have expressed their desire, and we support their request, to be part and to remain part of the town of Bar Harbor, not Acadia National Park.

High Seas is a historical building. It's on the National Register of Historic Places. It is used exclusively for the purposes of the Jackson Laboratory, which is a world-reknowned medical research center. I don't want to attempt here to speak for the trustees of the laboratory, but they have made it very clear to us that they have no intention of giving up that property.

They currently use it for their purposes; their full intention is to continue to use it as a medical conference center for the type of research that they do. They make an important contribution to our community and we wish that the committee consider that very seriously in looking at this bill.

Much time has been spent in preparing this—many meetings. We appreciate the efforts of Senator Mitchell and we would ask the committee to please consider this as a total package. Thank you.

[The prepared joint statement of Mr. Plante and Mr. Smith follows:]

STATEMENT OF RICHARD M. PLANTE, TOWN MANAGER, AND KENNETH E.
SMITH, TOWN COUNCIL CHAIRMAN, TOWN OF BAR HARBOR, MAINE
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE CONSERVATION
JULY 12, 1985

SENATOR WALLOP, MEMBERS OF THE SUBCOMMITTEE:

MY NAME IS RICHARD M. PLANTE, TOWN MANAGER, TOWN OF BAR HARBOR, MAINE, AND I AM HERE WITH KENNETH E. SMITH, CHAIRMAN OF THE BAR HARBOR TOWN COUNCIL, TO EXPRESS TO YOU THE SUPPORT OF OUR COMMUNITY FOR S.720, THE BILL WHICH WILL ESTABLISH A PERMANENT BOUNDARY FOR ACADIA NATIONAL PARK.

THE LEGISLATION WHICH IS BEFORE YOU IS THE CULMINATION OF NEARLY TWO DECADES OF NEGOTIATIONS AND DISCUSSIONS BETWEEN THE NATIONAL PARK SERVICE AND THE COMMUNITIES WHICH BORDER THE PARK. IT CONTAINS COMPROMISE LANGUAGE ON MANY ISSUES WHICH HAS BEEN CAREFULLY WORKED OUT BY REPRESENTATIVES OF THE VARIOUS COMMUNITIES WITH THE ASSISTANCE OF SEN. GEORGE MITCHELL AND THE MAINE CONGRESSIONAL DELEGATION. THIS HEARING IS OF ITSELF A MILESTONE IN THAT IT REPRESENTS THE FIRST TIME THAT THE MAJOR PARTIES TO THE ESTABLISHMENT OF A PERMANENT BOUNDARY HAVE BEEN ABLE TO AGREE, AT LEAST IN CONCEPT, TO THE PROPOSED LEGISLATION.

WITH BUT FEW CHANGES, BAR HARBOR SUPPORTS THE BILL IN ITS PRESENT FORM. WE RECOGNIZE THE NEED TO INCLUDE THE TOWNS OF FRENCHBORO, SWANS ISLAND AND THE CRANBERRY ISLES IN THE DISTRIBUTION OF IMPACT PAYMENTS AS PROVIDED FOR UNDER SECTION 7, GRANTS TO TOWNS. WE SHARE THE CONCERNS OF OTHER COMMUNITIES THAT THE "ADDITIONAL ISLAND" REFERRED TO IN SECTION 4 SHOULD BE NAMED.

IN OUR OPINION, THE NATIONAL PARK SERVICE SHOULD HAVE BEEN IN A POSITION TO IDENTIFY THE "ADDITIONAL ISLAND FOR THE PURPOSES OF BACKPACK PRIMITIVE CAMPING" AT THE TIME THE LEGISLATION WAS DRAFTED. UNLESS THE PARK SERVICE IS ABLE TO IDENTIFY THAT ISLAND AT THE PRESENT TIME, IT IS OUR OPINION THAT THE PROVISION SHOULD BE DELETED FROM THE BILL. THE NATIONAL PARK SERVICE COULD THEN CONDUCT A STUDY (FOR WHICH IT NEEDS NO AUTHORIZATION) TO DETERMINE IF THERE IS AN ISLAND SUITABLE FOR SUCH ACTIVITY AND THEN SEEK CONGRESSIONAL APPROVAL. AS REPRESENTATIVES OF LOCAL GOVERNMENT, IT IS INCONCEIVABLE TO US THAT ANY AGENCY, INCLUDING THE FEDERAL GOVERNMENT, WOULD BE GIVEN SUCH "CARTE BLANCHE" ACQUISITION AUTHORITY. ASIDE FROM THESE MINOR CHANGES, WE BELIEVE THAT THIS LEGISLATION ADEQUATELY ADDRESSES THE NEED TO PROTECT THE SPECTACULAR BEAUTY OF THIS ISLAND FOR ALL AMERICANS AS WELL AS THE CONCERNS OF NEIGHBORING COMMUNITIES.

IN DEALING WITH THIS LEGISLATION, WE WOULD URGE THAT CONGRESS AND THIS SUBCOMMITTEE RECOGNIZE THAT ACADIA NATIONAL PARK WAS CARVED OUT OF COMMUNITIES THAT EXISTED LONG BEFORE THE PARK. IT WAS CREATED BY WEALTHY INDIVIDUALS WITH PHILANTHROPIC INTERESTS AND DONATED TO THE FEDERAL GOVERNMENT. MUCH OF THE LAND INSIDE THE PROPOSED BOUNDARY IS NOT DEVELOPABLE, BUT MUCH IS. THE DEVELOPABLE LAND WAS ACQUIRED TO PROTECT THE VIEW OF THAT WHICH IS UNDEVELOPABLE. IN BAR HARBOR, FORTY-FIVE PERCENT (45%) OF OUR 27,815 ACRES IS PRESENTLY OWNED BY THE UNITED STATES GOVERNMENT. THIS AMOUNTS TO JUST UNDER 12,500 ACRES.

LIKE OTHER COMMUNITIES BORDERING ACADIA NATIONAL PARK, WE WISH TO PROTECT THE FURTHER EROSION OF OUR TAX BASE BY THE ACQUISITION OF ADDITIONAL PROPERTY FOR INCLUSION IN THE PARK. WE FEEL THAT THIS IS BEST ACCOMPLISHED BY THE LEGISLATION BEFORE YOU.

BAR HARBOR IS VEHEMENTLY OPPOSED TO THE USE OF EMINENT DOMAIN BY THE NATIONAL PARK SERVICE EXCEPT AS PROVIDED IN THIS BILL. WE UNDERSTAND THE NEED FOR THE TAKING OF CONSERVATION EASEMENTS TO PROTECT THE PARK FROM INCOMPATIBLE DEVELOPMENT WITHIN THE PROPOSED BOUNDARY AS WELL AS AT SCHOONER HEAD AND HIGH SEAS. HOWEVER, WE ARE STRONGLY OPPOSED TO ANY ATTEMPT TO ALTER OR STRENGTHEN THE USE OF EMINENT DOMAIN POWERS BY THE NATIONAL PARK SERVICE.

WE HEARTILY CONCUR WITH THE EXCLUSION OF SCHOONER HEAD AND HIGH SEAS FROM THE PROPOSED BOUNDARY AND SUPPORT THE CRITERIA SET FORTH IN THE BILL TO GOVERN DEVELOPMENT IN THOSE AREAS. SCHOONER HEAD IS HOME TO SEVERAL YEAR ROUND AND SEASONAL FAMILIES. THE LEGISLATION ADDRESSES THEIR DESIRE TO BE PART OF THE TOWN OF BAR HARBOR, NOT ACADIA NATIONAL PARK. HIGH SEAS, WHICH IS OWNED BY THE WORLD-RENOWNED JACKSON LABORATORY, IS OF EXTREME IMPORTANCE TO THAT INSTITUTION FOR USE AS A CONFERENCE CENTER FOR MEDICAL RESEARCH. AGAIN, WE BELIEVE THAT THIS AREA IS ADEQUATELY PROTECTED FROM ADVERSE DEVELOPMENT BY THE PROVISIONS OF S. 720.

BAR HARBOR, IN SUBSECTION (2)(b) OF SECTION 2 ACQUISITION OF LAND, HAS REQUESTED THE CONVEYANCE OF CERTAIN PROPERTIES TO THE TOWN UPON PASSAGE OF THIS BILL. THESE PROPERTIES INCLUDE OUR WASTEWATER TREATMENT PLANT AND THE TOWN'S ATHLETIC FIELDS. SINCE IT IS UNLIKELY THAT THE NATIONAL PARK SERVICE WILL BE ABLE TO UTILIZE THESE PROPERTIES FOR EXCHANGE PURPOSES, THERE SEEMS TO BE NO VALID REASON WHY THESE LANDS SHOULD NOT BE DEEDED TO THE TOWN IMMEDIATELY. WE HAVE ASKED THAT THE FORMER HEADQUARTERS OF ACADIA NATIONAL PARK ALSO BE CONVEYED TO THE TOWN UPON PASSAGE OF THE BILL. THERE HAS LONG BEEN AN UNDERSTANDING THAT THIS PROPERTY, LOCATED NEAR THE CENTER OF OUR COMMUNITY, WOULD SOMEDAY BE TURNED OVER TO THE TOWN. THE PROPERTY HAS TAKEN ON ADDED IMPORTANCE TO OUR COMMUNITY IN RECENT MONTHS AS THE PREFERRED SITE FOR A MUCH NEEDED MUNICIPAL COMPLEX.

BAR HARBOR STRONGLY SUPPORTS SUBSECTION (2)(c) OF THE AFOREMENTIONED SECTION DEALING WITH THE DONATION OF LAND BY THE NATIONAL PARK SERVICE FOR A SOLID WASTE TRANSFER STATION. LIKE OTHER COMMUNITIES ON MT. DESERT ISLAND, BAR HARBOR HAS MADE THE COMMITMENT TO TRANSPORT ITS WASTE TO A LICENSED DISPOSAL FACILITY SOME DISTANCE FROM THE ISLAND. TWO SITES, BOTH OF WHICH INVOLVE PROPERTIES SCHEDULED FOR DELETION BY THE NATIONAL PARK SERVICE, ARE CURRENTLY UNDER CONSIDERATION. THE CONSTRUCTION OF SUCH A FACILITY WOULD OBVIOUSLY SERVE ACADIA NATIONAL PARK AS WELL AS OUR ISLAND COMMUNITIES.

WE FURTHER SUPPORT THE USE OF FEDERAL FUNDS TO ASSIST IN THE CONSTRUCTION OF A FACILITY WHICH WILL SUPPORT THE NEEDS OF ISLAND RESIDENTS AND SUMMER VISITORS TO OUR COMMUNITIES AND ACADIA NATIONAL PARK. ALTHOUGH THE BILL IS SPECIFIC TO PROPERTY KNOWN AS PATTY LOT HILL, WE WOULD LIKE TO SUGGEST TO THE COMMITTEE THAT THE LANGUAGE BE BROADENED TO INCLUDE ANY SUITABLE SITE ACCEPTABLE TO THE PARK SERVICE AND THE PARTICIPATING TOWNS.

THE TOWN OF BAR HARBOR CONCURS WITH THE ESTABLISHMENT OF AN ACADIA NATIONAL PARK ADVISORY COMMISSION AS SET FORTH IN SECTION 6. WE BELIEVE THAT SUCH A COMMISSION WOULD PROVIDE THE TOWNS AND PARK MANAGEMENT WITH AN EXCELLENT VEHICLE TO ESTABLISH, MAINTAIN, AND IMPROVE COMMUNICATIONS. WE WOULD SUGGEST, HOWEVER, THAT THE LANGUAGE IN SUBSECTION 6 (e)(2) LAND ACQUISITION BE ALTERED SLIGHTLY TO REQUIRE THE SECRETARY TO CONSULT WITH THE COMMISSION "WITH RESPECT TO ALL MATTERS RELATIVE TO LAND ACQUSITION,...." THE ADDITION OF THIS SIMPLE WORD WOULD LEAVE NO QUESTION AS TO THE INTENT OF THE SUBSECTION AND NO ROOM FOR MISINTERPRETATION.

BAR HARBOR STRONGLY URGES THE COMMITTEE TO RESPOND FAVORABLY TO SECTION 7 OF THE BILL WHICH PROVIDES FOR A ONE-TIME PAYMENT TO COMMUNITIES BORDERING THE PARK. WE ARE VERY COGNIZANT OF AND APPLAUD THE EFFORTS OF CONGRESS TO HOLD THE LINE ON SPENDING AND TO REDUCE THE FEDERAL DEFICIT.

THE $2,000,000 PROVIDED FOR BY THIS SECTION IS LITERALLY TOKEN RECOGNITION OF THE CONTRIBUTION MADE BY THE COMMUNITIES BORDERING ACADIA NATIONAL PARK OVER THESE MANY YEARS. DISTRIBUTED IN THE MANNER PROVIDED BY THE BILL AND FOR THE PURPOSES SPECIFIED THEREIN, THE MONEY MAY ASSIST SOME COMMUNITIES TO UNDERTAKE MUCH NEEDED IMPROVEMENTS IN THE AREAS OF EMERGENCY SERVICES, SOLID WASTE DISPOSAL, AND ROAD MAINTENANCE. UNDER NO CIRCUMSTANCES COULD THESE FEDERAL DOLLARS BE CONSIDERED A "WINDFALL".

BAR HARBOR'S SHARE IS EXPECTED TO BE IN THE VICINITY OF $600,000. WHILE ANY HELP WILL BE GREATLY APPRECIATED, THIS SUM WILL BARELY COVER THE COST OF RECONSTRUCTING TWO ROADS WHICH PROVIDE DIRECT ACCESS TO THE NATIONAL PARK, PARTICULARLY DURING THE WINTER MONTHS. THESE TWO ROADS REPRESENT ONLY FIVE (5) MILES OF MORE THAN FIFTY-SIX (56) MILES OF TOWN ROADS WHICH ARE HEAVILY USED BY VISITORS TO MOUNT DESERT ISLAND AND ACADIA NATIONAL PARK.

IN ADDITION TO ROADS WHICH SORELY NEED ATTENTION, THE INFLUX OF VISITORS TO THE PARK PLACES A HEAVY BURDEN ON OUR POLICE DEPARTMENT WHICH STILL FINDS TIME TO ASSIST WITH CRIME PREVENTION AND INVESTIGATION WITHIN THE PARK; THE FIRE DEPARTMENT RESPONDS TO CALLS FOR ASSISTANCE; WE MAINTAIN TWO AMBULANCES WHICH MAKE FREQUENT TRIPS INTO THE PARK; AND OUR SEWER SYSTEM IS TAXED ALMOST TO CAPACITY BY THE MILLIONS OF PEOPLE WHO WANT A PLACE TO STAY AND A PLACE TO EAT WHILE VISITING THE ISLAND AND THE PARK.

WE CONCUR WHOLEHEARTEDLY WITH THE PROVISION IN SECTION 9 OF THE BILL WHICH WOULD REQUIRE THE SECRETARY TO PREPARE A REPORT ESTABLISHING TRANSPORTATION CAPACITIES FOR ACADIA NATIONAL PARK. THERE IS A DEFINITE NEED FOR SUCH INFORMATION TO ASSIST THE PARK AND LOCAL COMMUNITIES IN PLANNING FOR THE FUTURE. IN ADDITION TO THE PROBLEMS NOTED ABOVE, THE INFLUX OF SUMMER VISITORS IN BAR HARBOR CREATES MAJOR CONGESTION ON LOCAL STREETS AND ROADS AND ADEQUATE PARKING FOR THE INCREASED NUMBERS IS VIRTUALLY NON-EXISTANT. AS GREAT AS THE NEED MAY BE FOR SUCH INFORMATION, WE, LIKE OTHER COMMUNITIES, LACK THE RESOURCES TO DEVELOP SUCH A REPORT.

BAR HARBOR URGES THE COMMITTEE TO GIVE SERIOUS CONSIDERATION TO THE CONCERNS WHICH HAVE BEEN EXPRESSED HERE. IT IS OUR SINCERE BELIEF THAT ALL CAN BE ADDRESSED WITHIN THE FRAMEWORK OF S.720 WITHOUT SUBSTANTIALLY ALTERING THE KEY PROVISICNS OF THIS IMPORTANT LEGISLATION. FINALLY, BAR HARBOR STANDS READY TO ASSIST THE COMMITTEE IN ANY WAY POSSIBLE TO PROMOTE ENACTMENT OF THIS BILL AND THE ESTABLISHMENT OF A PERMANENT BOUNDARY FOR ACADIA NATIONAL PARK.

Senator WALLOP. Thank you.
Mr. Knowles.

STATEMENT OF MICHAEL K. KNOWLES, MANAGER, TOWN OF SOUTHWEST HARBOR, ME

Mr. KNOWLES. Thank you, Mr. Chairman, Senator Mitchell.

I think basically what I'd like to do is just go over portions of the bill and express our community's concern. The permanent boundary that we feel is essential, any enlargement on that would create problems from not only the local perspective but, we feel, from the National Parks' perspective as well.

In 1980 Acadia National Park reported 11 possible threats to the park integrity. Many of those reported threats dealt with carrying capacity, so we would suggest that any enlargement of the proposed boundary would just add to those problems.

I think as far as the eminent domain provision we get back to the uniqueness of the park. The park hasn't had to exercise that authority, nor has it had it, to grow from the 6,000 acres to the 35,000 acres today. This is a very key local issue and we feel that the criteria established within the bill will protect the park's integrity on those specified parcels.

The transfer of the Patty Lot Hill site for a transfer station again is too restrictive, in our opinion. We feel that there's at least one additional area within the park that is scheduled for deletion that may be more appropriate for the location of a transfer site, and we would like to see the legislation revised to reflect that fact.

One key issue that we do have is the acceptance or any change in the criteria established for conservation easements. The easements, according to State statute, any type of easement that is granted on property does reflect value—does affect value. We have taken the position locally that it does not. To this extent we've gotten away with it, and if there's a good solid reason for the easement to protect the park integrity we feel it should be accepted. Otherwise, we don't see the necessity of it and it limits our growth potential.

The advisory committee is essential. The park has suggested the MDI league of towns as that vehicle. We do not feel that is an appropriate vehicle. It's a rather loose-knit group, to say the least, and it doesn't have the necessary structure to allow for local input.

As far as the grants go, I think this is one of the biggest misconceptions, at least from our perspective, of the Acadia National Park experience, if you will. In our community the visitor impact is not as great as some people would like to think. The island as a whole manufactures roughly $30 million worth of products in a given year. Southwest Harbor itself represents $17 million of that total.

I think that the tourist dollar does have an impact. I don't believe it's as significant as some would lead you to believe. We also have a U.S. Coast Guard base, group, located in the community which does contribute significantly to our economy. And our fishing fleet is ranked eleventh statewide. So tourism plays a role.

We feel that, you know, what we have to offer in the area of boatbuilding, fishing lends itself to the visitor experience of the area. We're an important critical part of the park. Our primary objection is that we don't become totally engulfed by the park. I think the visitor will lose.

[The prepared statement of Mr. Knowles follows:]

Southwest Harbor, Maine 04679
Telephone 244-5404

STATEMENT

ROBERT STANWOOD, SELECTMEN

MICHAEL K. KNOWLES, MANAGER

TOWN OF SOUTHWEST HARBOR

SENATE SUB-COMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION.

JULY 12, 1985

S.720 ACADIA NATIONAL PARK BOUNDARY ACT

The Town of Southwest Harbor, which I represent is a year round community of 1855 people and depends on a mixture of boatbuilding, fishing and tourism for our livelihood.

With the additional acquisitions proposed under the legislation, Acadia National Park will own or control thru easement approximately 53% of our total land mass. The critical importance of a permanent boundary for Acadia National Park is essential, if we are to provide a pattern of planned growth which will ensure the quality of life our residents have come to expect. The legislation is as critical to the National Park Service if they are to be successful in meeting the challenges of providing the necessary "visitor experience" to our area.

You must realize it has taken approximately 20 plus years to reach this point, the process has involved a dozen or so environmental groups, seven towns, the Department of Interior, a variety of State and County agencies and a diverse group of individuals with one common objective; the establishment of a permanent boundary for Acadia National Park.

In 1980 a report entitled "State of the Parks" was prepared by the National Park Service for Congress. Acadia National Park reported only 11 possible threats to the Park intergrity. (Smoke, Carbon, Monoxide, Hydrocarbons, Acid Rain, Forms of Oxide of Nitrogen, Radon, Air Pollution-suspected, needed further documentation, inorganics, organics, Oil Spills, Water Pollution - suspected, Forest disease, Wildland Fire, Land Development, Utility Access-potential, Overcrowding and Vandalism, Hunting-overharvesting, Fishing-overharvesting, archeological collecting, Motor Vehicles, Erosion, Habitat Destruction, Algae Growth, Park Operation. Many of these threats are environmental concerns which need to be addressed at the National Level and aren't restricted to Acadia National Park. The remaining problems or threats deal with Park Management problems, whether it be vehicle or pedestrian traffic within the Park or simply addressing the carrying capacity of the Park itself. Faced with these issues, we feel, the Park should direct itself to compiling the necessary baseline information to determine priority items, develop a comprehensive plan to address those, then seek the necessary funding or technical assistance to take corrective action.

Some may suggest the Park Service has failed to meet long-term goals in not including additional areas for future acquisition; we would suggest they have acted properly and with a great deal of foresight. Faced with budget constraints and increased use, a proper management team would first address the problems associated with their existing facilities prior to expansion. The Park in our opinion, must first preserve the ecological and scenic areas within the proposed boundaries before venturing into yet uncharted areas; to do otherwise may very well ensure the destruction of those things we intend to preserve. If we prolong this process we'll encounter a change in personnel and with this change a change in philosphy, everyone will ultimately lose by this being prolonged. In our opinion the necessity of establishing a permanent boundary for Acadia is clearly apparent and necessary.

The comments which follow address either the concerns we have with the proposed bill or provide the necessary documentation for our request. We hope this information will be considered during future delibrations concerning Acadia National Park.

The parcels identified for either acquisition or deletion, within our Community have been reviewed and agreed upon. However reservations still exist in the unbridled use of eminent domain power granted to the Secretary of Interior; particularly in light of the unique history of Acadia National Park.

Acadia was formed in 191[illegible] with a donation from James Dorr, of 6,000 acres and today covers approximately 34,000 acres acquired strictly thru donations. We would suggest the Department of Interior has never been the recipient of any greater natural rescurce, in their history, and this prestigous Park was obtained without the legal authority of eminent domain.

Eminent domain is and has been a key issue for the National Park Service as well as many environmental groups; we also recognize it as a viable and important management tool if the Park is to be adequately protected. Our difference rests with the individual or group which has the ultimate authority to exercise this power. During the "mediation process" which took place in 1979, as part of our history of attempting to settle this issue, we feel an acceptable compromise was reached. The use of the power of eminent domain should rest with the local Acadia National Park Advisory Committee and not with the Secretary of the Interior as specified within the bill. While we have been repeatedly informed, this type of condition or stipulation has never been acceptable, we would suggest the uniqueness of this Park, thru its very conception sets a precedent which lends itself to a deviation from the norm. "Local Control" is a familiar buzzword which many public policy setters are using today; however in our part of this country it's a reality and not a philosphy. The Advisory Committee should be well acquainted with the specific situation requiring the necessity of its use and the sense of local control would not be lost. Contrary to the opinions of a few, the local community is committed, and would not be reluctant to exercise this authority, if granted, were the intergrity of the Park threatened in anyway. We have a vested interest in the preservation of our natural resources since they are a critical part of our heritage.

The transfer of Patty Lot Hill, which is scheduled for deletion, for the construction of a transfer station to serve Bar Harbor and the remaining communities is in our opinion too restrictive. If approved legislation requires the Department of Interior to contribute 50% up to a maximum of 350,000 for the development site for the disposal of solid waste. Mount Desert Island generates approximately 10,000 tons of solid waste per year excluding the amount generated by the National Park. (A realistic tonnage estimate for the Park has been established at 600 tons.)

We feel our request for financial support and the transfer of property is not only well founded but documented as well. As the largest single landowner on the Island, were it not for their tax exempt status, the Park would be contributing a very substantial portion of the construction expense associated with the construction of a transfer station.

Transfer stations require a similiar approval process as do landfills; if areas within the Park are excluded from consideration our area of search has been greatly reduced and this will be reflected in the cost.

Two (2) potential Park owned sites have been identified for this purpose, however, if approval isn't forthcoming we may very well be faced with constructing separate transfer sites for the Island. If this occurs we'll again be faced with increased costs for all concerned. We are all faced with this problem and a unified solution is not only the most cost effective approach but also the most desireable.

Our concerns with the Park accepting easements has been satisfactorily addressed in the proposed legislation. This question has been extensively debated and we feel if the Park can support the easement based on the criteria established then the easement should be accepted. Our fear of indiscriminate acceptance, based solely on the opinion of a particular superintendent is not without merit.

"Title 36, Subsection 701-A of the Maine Revised Statutes Annotated is as follows: Just Value Defined ---

In the Assessment of property, assessors in determining just value are to define this term in a manner which recognized only that value arising from presently possible land use alternatives to which the particular parcel of land may be put. Assessors must consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. Restrictions shall include but are not limited to zoning restrictions limiting the use of the land, subdivision restrictions and any recorded contractual provisions limiting the use of the lands. The just value of land is determined to arise from and is attributable to legally permissible use or uses only."

Conservation easements are contractual provisions limiting the use of the land as described above and may reduce the value of the property thus reducing our revenue base. (The conservation easement precludes the highest potential use of the property and we must make the appropiate changes in value to reflect this change.) Further reductions in our revenue base should only occur if a demonstrated need exists; the criteria outlined would be utilized in establishing this need and we find it to be an acceptable compromise.

While our community may not be directly impacted by the issue of the island acquisition we would like to voice our concerns. The inclusion or addition of yet unnamed 11th island is totally unacceptable. We feel the Park and interested parties have had sufficient time to identify any additional islands for acquisition which were needed and these should have been identified specifically within the legislation. The selection criteria, backpack primitive camping, is without merit and a very expensive venture for the Park to undertake, faced with the financial restrictions of today. For those reasons we feel the 11th yet unnamed island should be deleted from the legislation process.

The inclusion of the Advisory Committee has our whole hearted endorsement, this will afford the local community the opportunity to voice their concerns and also provide the necessary understanding of problems related to Park operations. We feel their role should be expanded as we indicated earlier to include the use of eminent domain, with the inclusion of members representing all groups the intergrity of the Park would be ensured and "local control" would continue to have a meaning. The Advisory Committee should ensure a continued dialogue on issues which will only enhance the "visitor experience."

Section 7 covers the Grants to the communities based on the individual impact Park ownership has in the respective area. Legislation, if approved requires the money to be expended in the following categories; fire and police protection, solid waste management, road maintenance and improvements, essentially those services impacted by the Park visitors. Our basis for this request is founded on the method in which the Park was formed, thru the donation of privately owned property which had been part of our local revenue base.

"Although the exemption of the Federal Government from State and Local Taxation is not (and has never been) constitionally guaranteed, judicial precedent has established the immunity doctrine since 1819. However, since the 1930's the scope of immunity doctrine has been narrowed so that now Congress has the statutory power to determine the extent of the tax immunity for various Federal agencies. Congress also began to recognize the effects associated with tax immunity and instituted various programs for compensating local governments."

According to a 1981 Advisory Commission on Intergovernmental Relations (ACIR) the 1978 value of all federally owned property in the United States was 279 billion, of which 23% - 64.2 billion represents land value. A major conclusion of the ACIR Report was that these federal tax exemptions erode a large part of State and local tax base.

Precendent setting policies have already been enacted by Congress:

(1) Revenue of receipt sharing programs, where sharing of receipts from natural resources recovery on mineral of forest lands and visitor and camping fees are utilized to offset specific expenses at either the State or local level.

(2) Payments in Lieu of taxes-under this program several combinations of valuation and tax rate factors determine the payment.

(3) Formula based exist as well and may be determined by:

(A) Fixed fee per acre

(B) Fixed fee per Federal employer

(C) Cost of service computation

(D) Various grants for community assistance

We feel our proposal for payment falls within at least one of the above mentioned categories; the precendent has already been established for additional payments. Our one (1) request for payment is actually the least desireable from our perspective but with the growing Federal budget deficit and in keeping with the compromise effort we feel this alternative is appropriate.

Thru the years the local community has experienced an erosion of our revenue base, one might conclude this is similiar to the problem encountered at the Federal level with people who either fail to pay income tax or alter their returns. In our particular case we feel the Federal Government has failed to meet its obligations to the local community. Our tax loss has been estimated at $173,169 per year due to the tax status of the Park, under proposed legislation we'll receive an estimated $225,000 in a one-time payment.

The per capita tax effort in our State in 1979-80 was $292.00 in Hancock County, $338.00 and on Mount Desert Island $541.00; in Southwest Harbor it is $700. The impact of large tax exempt ownership is clearly evident, the local taxpayer must absorb the additional costs and all "for the sake of the National interest".

Our municipal budget reflects increased expenditures primarily in the areas of police, fire, solid waste and highway services due to the increased demand for service. Personnel costs are continuing to rise, particularly in light of the recent Supreme Court decision which requires the municipal sector to comply with the Fair Labor Standards Act. However, one major area of expenditure which is frequently overlooked are our capital expenses. New fire engines, ambulances, police cars, public works vehicles and auxiliary equipment are expensive items to purchase and maintain. The highway network, while showing signs of improvement, is still incapable of handling the large influx of visitors and still serve our local businesses and residents. Southwest Harbor has one of two National Park service campgrounds located within our boundaries, this facility attracts a great number of groups touring by bicycle and the increase use has compounded traffic congestion within our Municipality.

The burden of maintaining this transportation system falls to either the State of Maine or local community, only where the Park abutts both sides of the highway would Federal funds be available for reconstruction. Unlike many Federal Parks, where the Federal Government was responsible for the construction of a complete highway system, Acadia has only had to assume the construction costs for Ocean Drive and a few carriage paths. Primary road systems were constructed by the local communities to serve the residents and businesses of our areas and the Federal Government or the visitor to this Park have reaped the benefit without assuming a great deal of additional expense.

The infrastructure provided by the towns isn't limited to the highway system; sewerage treatment, water supplies and solid waste play a prominent role as well. These services were developed by the local resident to meet their needs and the Park has reaped the benefit without assuming the financial liability they incurred in other Parks. Some may argue Federal financial assistance was used in the construction of our sewer treatment facility and we would agree. However many towns and cities nationwide received the same financial support and have still maintained their revenue base.

When one of our public safety units respond to an emergency on Park property the town assumes the liability for not only the personnel operating the equipment but the vehicle itself. We feel this type of "mutual assistance" is essential and benefits both organizations. However, the cost of assuming that risk should also be considered when computing the "In Lieu of Tax Payment".

If this property were held privately, our residents would experience a decline in the property tax, even considering any added municipal costs which might be incurred. This opinion is substantiated when examining the tax rate of the lower Maine Coastal Communities we used in our comparison study. With the tax exempt status of the Park our citizens are required to assume these added costs all in the name of the "National Interest".

We've outlined several general reasons for our request for the Grants to the respective communities. We would also be remiss if we didn't recognize the "positive impact" these visitors have had on our economy, however, in our specific case it still plays a small role in our overall economic structure. Mount Desert Island generates approximately $30,000,000.00 per year in manufactured items based on amounts supplies by the Maine Bureau of Taxation; Southwest Harbor is responsible for 57% or $17,000,000.00 of this total. Our fishing fleet plays a prominent role in our overall economic structure as the 11th ranked port in our State. The fishing industry generated approximately $1,200,000.00 (1977 dollars) which has a significant impact on our economy. Southwest Harbor is also the site of a United States Coast Guard Group Base which generates an additional $1,200,000.00 which we must consider when evaluating our overall economic structure. In this particular case, although their landholding are tax-exempt, their contribution far exceeds not only their demand for services but also the loss of revenue.

The Town undertook a very short and informal poll of our year round businesses several years ago and found we actually had more employment opportunities than citizens of working age to fill them. Our businesses have encountered problems, including the municipal sector, with finding affordable housing for our employees. This has required a number of employees to locate in areas outside of not only our municipality but off Mount Desert Island altogether. With the majority of our landmass contained within Park boundaries the pressure has intensified on our existing housing market and areas still available for development. With the removal of these lands (Park) from future development and the accompanying loss of revenue suffered by businesses due to relocation of employees you have yet another reason to adequately address the "In Lieu of Tax Payment" and also the establishment of a Permanent Boundary.

Acadia National Park isn't only the view from Cadillac Mountain, Seawall, Thunder Hole or visiting the off-shore islands and lakes that dot our island. Rather to the visitor Acadia is a microcosm of all the above and Southwest Harbor, Manset, Seawall, Pretty Marsh, Northeast Harbor and Bar Harbor. It is, and hopefully will remain, a very unique experience for anyone visiting our area.

We as residents enjoy the benefits and appreciate the presence of the Park as well if not more than the visitor; it's our home. When the 7 great wonders of the world were documented in the works of Philo of Byzantine he obviously had never visited Mount Desert Island. But to live here we must balance the need to preserve our area, with a need to grow, to provide the necessary tools, jobs and homes so our children and their children can enjoy the same benefits we ourselves enjoy. The so-called National interest is our interest as well and we feel we fairly reflect this attitude. If the Park continues to expand beyond what is proposed, we would suggest the unique area which is Acadia National Park, our fishermen, boatbuilders and small villages will cease to exist and the visitor experience will suffer immeasurably.

The balancing act which has been obtained within this legislation fairly addresses the concerns of the environmentalist, the National Park and the communities. Any major change in positions outlined within the bill will result in an Acadia National Park which is unlike the Acadia of today and the National interests of both the resident and visitor will be far worse for it.

Senator WALLOP. Thank you, Mr. Knowles.

I might just observe that I have had the experience of sharing similar kinds of frustrations, of having worked long and hard with people, only to find that there is an elitist crowd that wishes to interject itself right at the last minute who knows better than all of us who have worked on things for a long time.

I can hear that clearly, and certainly in this democracy they're welcome in, but they need not be viewed as more important than those who have been working all along. Their views will be heard and accommodated to the extent that they can be, but they do not have a right to impose their judgment at the last minute over that which has taken place over a long period of time.

Any questions, Senator Mitchell?

Senator MITCHELL. Mr. Chairman, I thank the witnesses for coming down. I have no questions for them at this time.

Senator WALLOP. Thank you very much.

The next panel is Mr. Douglas Chapman from Bar Harbor, ME; Mr. Robert Stanwood from the town of Southwest Harbor; and Ms. Gretchen Strong, town of Tremont.

Good morning; welcome. Mr. Chapman.

STATEMENT OF DOUGLAS B. CHAPMAN, BAR HARBOR, ME

Mr. CHAPMAN. Good morning, Mr. Chairman, Senator Mitchell. My name is Douglas B. Chapman, an attorney and partner in the Bar Harbor, ME, law firm of Fenton, Chapman, Fenton, Smith and Kane. I was born in Maine and have lived my life thus far as a resident of Hancock and Washington Counties, known regionally as "Down East Maine."

Land acquisition, use and conservation have been major elements in my professional practice and I have represented such organizations as the Maine Coast Heritage Trust, the Nature Conservancy, National Audubon Society, and the National Park Foundation. I am deeply concerned about land use and the evolution of a master plan for Acadia National Park.

The pending legislation, H.R. 1685 and S. 720, is the culmination of many decades of participation by Federal, State, and local officials, as well as by private citizens and associations. The pending legislation was designed to codify the conclusions reached through these negotiations extending over 15 years in the form of a master plan.

The negotiation and mediation of certain conflicting interests at national and local levels has required sustained effort, forbearance and dedication by park officials and other parties, to whom we are indebted.

However, a recurring problem over these years of negotiation has been the assertion by some people of shorter-term interests which would be of benefit to a few but a detriment to longer-term national interests of a larger constituency. I believe the park officials and those community leaders with broader vision have admirably and steadfastly maintained the more encompassing perspective against these persistent assaults by those with special interests.

Unquestionably there have been legitimate needs and grievances issuing from the local town level and the pending legislation adequately resolves some of these conflicts of interest. However, provisions that I consider to be unwise have been incorporated into this legislation, which favors special local interests to the detriment of the millions of people who visit Acadia National Park. I believe these unfortunate provisions should be either amended or eliminated. These provisions are as follows.

A major omission is the failure to confer on the Secretary's authority to protect parcels of land not owned by Acadia National Park but which are within the new park boundary established under section 1. There are 178 parcels within the park scheduled for acquisition. These may be acquired only by gift, voluntary exchange, or by purchase from a willing seller.

The Secretary is authorized to use eminent domain to acquire tracts threatened by development incompatible with park purposes as defined and limited by the legislation, but this applies to only 28 or these 178 parcels. This restricted power of eminent domain should be, of course, extended to authorize protection of all 178 parcels scheduled for acquisition, as consistent with the policy of every other National Park across the country.

I therefore recommend that section 2(d)(3) be amended and that the following be substituted for the first 6½ lines, which are at the bottom of page 4, lines 21 through 25, inclusive of the top of page 5, line 1: It should be "Section (3) Development or Changes of Certain Tracts. On all tracts identified for acquisition within the boundary identified on the map described in section 1,".

Other provisions are as follows. In section 3(e) an impractical precondition is attached to the acquisition of conservation easements by which the Secretary is prohibited from acquiring an easement without "providing written justification to the town in which the land is located and the Acadia National Park Advisory Commission." The phrase "written justification" is legally unintelligible, indefinite, and may place inadvisable power in the hands of the town and the advisory commission, restricting the Secretary's acquisition of conservation easements.

There is no way of knowing what "written justification" means, nor in whose judgment the reasons given may constitute justification. This provision could only invite litigation, thereby obstructing the Secretary's efforts to acquire desirable conservation easements, and in practice could well be viewed as a lawyers 'retirement annuity.

I recommend, therefore, that section 3(e), page 11 of the bill, line 3, be amended to delete "first consulting with, and providing written justification for, 'and substitute therefor, "first providing written notice to and consulting with' With this amendment, section 3(e) will then be consistent with the requirements for consultation with the advisory commission under section 6(e).

Section 4 specifies 10 islands which the park may acquire for inclusion in Acadia National Park, plus "one additional island for the purpose of backpack primitive camping." The latter acquisition, however, is conditioned upon "a unanimous vote by the Acadia National Park Advisory Commission." Moreover, such unanimity constitutes a veto power in the hands of a so-called "advisory" group. This unwise provision hamstrings the ability of the park to make this important acquisition of one additional island for backpack purposes.

I recommend the following amendment to section 4, page 11, lines 16 through 17: Change "and after a unanimous vote by" to "after consulting with." By this amendment to section 4, it is now consistent with the consultation provisions of section 6(e).

I notice the red light is on and I'll summarize briefly the balance of my testimony.

Senator WALLOP. Mr. Chapman, the whole statement will be in the record. I appreciate the brevity of 5 minutes, but you must also appreciate that there are 30 witnesses.

Mr. CHAPMAN. If I may make one or two comments.

Senator WALLOP. One perhaps.

Mr. CHAPMAN. If I may, I'd like to make one or two comments.

Senator WALLOP. One perhaps.

Mr. CHAPMAN. I was involved with Mr. Jarvis in Senator Mitchell's office and Senator Muskie's office and Cohen's office and with Miss Snow's office in Mediated Park Agreement back in the 1970s and I concur that the people, those three individuals who testified here this morning—the Sierra Club, the Wilderness Association and the Maine Natural Resource Council—have never been involved.

There's been many years work and a lot of energy and perspiration has been spent on putting together this mediated agreement. For them to show up the day before with this list of needs and wants is really unexpected and uncalled for, considering the needs of the community.

The other one is that the $2 million being asked for here is not a lot of money and considering the impact of the millions of people who come to that community or the communities of the area is justified and I have no problem of conscience with that.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Chapman follows:]

TESTIMONY OF DOUGLAS B. CHAPMAN IN SUPPORT OF H.R. 1685 AND S.720 TO ESTABLISH A BOUNDARY FOR THE ACADIA NATIONAL PARK WITH SPECIFIED AMENDMENTS BEFORE THE UNITED STATES SENATE SUBCOMMITTEE ON PUBLIC LAND, RESERVED WATER, AND RESOURCE CONSERVATION.

My name is Douglas B. Chapman, an attorney and partner in the Bar Harbor, Maine, law firm of Fenton, Chapman, Fenton, Smith & Kane. I was born in Maine and have lived my life thus far as a resident of Hancock and Washington Counties, known regionally as "Down East Maine". Land acquisition, use and conservation have been major elements in my professional practice and I have represented such organizations as The Maine Coast Heritage Trust, Nature Conservancy, National Audubon Society, and The National Park Foundation. I am deeply concerned about land use and in the evolution of a master plan for Acadia National Park.

The pending legislation, H.R. 1685 and S. 720, is the culmination of many decades of participation by federal, state, and local officials, as well as by private citizens and associations. The pending legislation was designed to codify the conclusions reached through these negotiations extending over fifteen years in the form of a master plan. The negotiation and mediation of certain conflicting interests at national and local levels has required sustained effort, forbearance, and dedication by Park officials and other parties to whom we are indebted.

However, a recurring problem over these years of negotiation has been the assertion by some people of shorter term interests which would be of benefit to a few, but a detriment to longer term national interests of a larger constituency. I believe the Park officials and those community leaders with broader vision have admirably and steadfastly maintained the more encompassing perspective against these persistent assaults by those with special interests.

Unquestionably, there have been legitimate needs and grievances issuing from the local town level and the pending legislation adequately resolves some of these conflicts of interest. However, provisions that I consider to be unwise have been incorporated in this legislation which favors special local interests to the detriment of the millions of people who visit Acadia National Park; I believe these unfortunate provisions should be either amended or eliminated. These provisions are as follows:

A major omission is the failure to confer on the Secretary authority to protect parcels of land not owned by Acadia National Park but which are within the new Park boundary established under Section 1. There are 178 parcels within the Park scheduled for acquisition. These may be acquired only by gift, voluntary exchange, or by purchase from a willing seller. The Secretary is authorized to use eminent domain to acquire tracts threatened by development incompatible with Park purposes as defined and limited by the legislation, but this applies to only 28 of these 178 parcels. This restricted power of eminent domain should of course be extended to authorize protection of all 178 parcels scheduled for acquisition, as consistent with the policy of every other National Park across the country. I therefore recommend that Section 2(d)(3) be amended and that the following be substituted for the first 6½ lines (bottom of Page 4, lines 21-25, top of Page 5, line 1).

> --(3) DEVELOPMENT OR CHANGES OF CERTAIN TRACTS. - On all tracts identified for acquisition within the boundary identified on the map described in Section 1,--.

Other provisions are as follows.

In Section 3(e) an impractical precondition is attached to the acquisition of conservation easements by which the Secretary is prohibited from acquiring an easement without "providing written justification to the town in which the land is located and the Acadia National Park Advisory Commission...." The phrase "written justification" is legally unintelligible, indefinite, and may place inadvisable power in the hands of the town and the Advisory Commission restricting the Secretary's acquisition of conservation easements. There is no way of knowing what "written justification" means, nor in whose judgment the reasons given may constitute "justification". This provision could only invite litigation thereby obstructing the Secretary's efforts to acquire desirable conservation easements, and in practice could well be viewed as a lawyers' retirement annuity. I recommend, therefore, that Section 3(e), Page 11 of the bill, line 3, be amended to delete "first consulting with, and providing written justification for," and substitute --first providing written notice to and consulting with--. With this amendment, Section 3(e) will then be consistent with the requirements for consultation with the advisory commission under Section 6(e).

Section 4 specifies eleven islands which the Secretary may acquire for inclusion in Acadia National Park plus "one additional island for the purpose of backpack primitive camping". The latter acquisition, however, is conditioned upon "a unanimous vote by the Acadia National Park Advisory Commission". Moreover, such unanimity constitutes a veto power in the hands of a so-called "advisory" commission. This unwise provision hamstrings the ability of the Park to make this important acquisition i.e. "one additional island for the purposes of backpack primitive camping". I recommend the following amendment to Section 4, Page 11, lines 16-17. Change "and after a unanimous vote by" to "--after consulting with--". By this amendment Section 4 is now consistent with the consultation provisions of Section 6(e).

"Conservation easement" is defined in Section 3(d) and reference is made to a Maine statute on conservation easements. I am happy to report that the Maine legislature has just adopted the Uniform Conservation Easement Act 33 MRSA Section 476 et seq.

providing a more comprehensive legislative procedure for obtaining conservation easements in the State of Maine. This act became law when our Governor signed it on June 21, 1985 and will become effective on Sept. 19, 1985. The definition presented under Section 3(d) of the present Acadia National Park legislation should therefore be updated to state this more comprehensive definition for "conservation easement" provided under the UCEA.

A further point on conservation easements is in order. A separate and extraordinary unit of Acadia National Park lies at the head of Schoodic Point on the mainland northeast of Mount Desert Island. This component of Acadia National Park is a treasure to those who frequent the area, and an important asset of the Park is the unusual quality of the access routes to this separate component. I recommend that the Secretary be granted power to acquire conservation easements to protect the scenic integrity along these access routes to the Schoodic Peninsula unit of Acadia National Park. Therefore I recommend the following amendments to Section 3. Change the heading to read --Section 3 Conservation Easements on Islands and the Schoodic Peninsula.--; and in the first sentence of Section 3(a), line 3 after "parcels of land" insert --in that portion of the Schoodic Peninsula in the Town of Winter Harbor, and--.

With respect to Section 2(a)(3), the short time limit afforded the Secretary for exchanging lands outside the Park boundary is unrealistic and inadequate. The slow and painful process of land planning decisions relating to Acadia National Park over the past fifteen years demonstrates conclusively that five years is not enough time. I recommend that Section 2(a)(3) be amended at Page 3, line 4 to increase the time limit from five years to ten years, within which the Secretary may negotiate exchanges of land using federally owned property outside the Park boundary to acquire title to non-federal property located within that boundary.

Section 2(c), the first sentence seems overly restrictive in designating a particular site for a solid waste transfer station. Other locations may well turn out to be much more suitable. Rather, the Secretary should be authorized to participate in, and contribute to the selection of a location and the development and financing of an appropriate solid waste transfer station serving Mount Desert Island jurisdictions.

One final point relates to Section 5(a) of the legislation which excludes Schooner Head and High Seas from within the boundaries of Acadia National Park. The loss of these properties to Acadia National Park is a grievous tragedy and if there is any way possible to restore these properties to the park, without jeopardizing this legislation, it certainly should be done.

Finally, a personal note. If my arguments are persuasive to this subcommittee, I will leave this room with the conviction that a small town lawyer, from an island on the Coast of Maine, has made a contribution that has enriched one of our country's most important treasures.

Senator WALLOP. Thank you.
Mr. Stanwood.

STATEMENT OF ROBERT STANWOOD, TOWN OF SOUTHWEST HARBOR, ME

Mr. STANWOOD. Thank you, Senator Wallop, for this opportunity to address this panel for the other members of the board. Senator Mitchell, I want to thank you and your staff for picking up the reins from Senator Cohen on this matter You've done a tremendous job with it and we certainly are indebted to you and to Senator Cohen. We hope to work closely with you on seeking passage—and, boy, do we need passage—of the bill for Acadia National Park.

I think the park people themselves recognize the need for a permanent boundary. This has been discussed and stated by the present park administration and previous administrations, that they, for planning purposes, indeed need a permanent boundary as much or perhaps more than the community.

There are several concerns. As everybody has stated, nobody gets all they want in any kind of legislation. This is a compromise bill at best. I view it as the best that we have been able to put together. There are some flaws in it which can be addressed, I'm sure, through the process. The concerns that Southwest Harbor has are few.

We are very concerned about the park coming in at the eleventh hour with a request for an eleventh island, unnamed. We feel they have had ample opportunity to name that island. I think the administration has publicly gone on record as saying that wilderness camping on an island would be an administrator's nightmare. It's not a popular item as far as the park itself goes. I'm sure it is by some of the conservation groups. They don't have the manpower and the equipment to manage a wilderness camping area; that is public knowledge.

I think, too, the park, if it doesn't get a permanent boundary, will have to probably erode some of the—further erosion of some of their services that they are providing in the national interest because of budget constraints.

Mr. Wrye has gone on the public record in a local paper, when the Youth Corps Conservation thing was not funded this year, that further lack of maintenance will occur on some of the now-existing trails, let alone adding more to the park. Everybody knows the budget constraints and the reasons for them, and I'm sure he can appreciate some of those problems if he indeed has more land to manage.

We in Southwest Harbor are the most recently-hit community with the loss of taxable land. There was a tract of 88 acres that was conveyed to the park, for which we received several hundred dollars in taxes, now for which we're getting 75 cents an acre. Now 88 acres isn't much property, but we don't have much property left. The National Park owns better than 55 percent of the township of Southwest Harbor. That's not unique to some of the other areas, but when you live on a small island as we do it is significant.

We provide a lot of services to the visitors to the Acadia National Park. The taxpayers, of which there are only 1,800 citizens in

Southwest Harbor, do contribute significantly to the needs of the national interest. I'm talking about fire and other public service things, sewerage. Solid waste certainly is a problem. We are in need of more roads, better roads, safer roads.

The bicycle tours coming to Acadia are increasing each year. The park people send most of those to the Seawall camping area, which is pretty much a secondary road, very narrow, very heavily traveled, very unsafe for bicycles. As you know, the park people can only build roads if the roads pass through parklands on both sides. They've done some, but it's going to be up to the communities to improve bicycle safety in particular. Either that, or the State, and the State is under budget constraints also.

I think we should not always talk about the negative. I think in recent years during the mediated process, in 1979 and up through this period I've seen a change in attitude of the public towards the park. That's not always been the case with the older residents of our community in particular and, I think, the island.

But things have changed and I think with this bill and the inclusion of an advisory committee so that we have some local control, local say, it will certainly enhance the feeling that the population of the island has toward the park. This has been embraced by the park administration during the mediated process. It's not brand new. We've had a good melting of some very hard lines during these last 5 or 6 years, and I would like to see that continue, and it can continue.

If the park gets the boundaries, if the powers of eminent domain are not 100 percent open to them, I think we can be good neighbors and good citizens working together for a common cause. Thank you.

Senator **Wallop**. Thank you, Mr. Stanwood. I must say that it is not hard for a westerner to hear the complications of providing police services and fire services and sewage services and wildlife services and a number of other services to Federal lands. It is the everyday existence of westerners, and so it's nice to know that perhaps there is a ring of truth in that that can reach an eastern ear. You can perhaps understand what we go through, as you seek to understand what this means to your island and your communities, to share these properties and responsibilities with a diminished tax base.

Ms. Strong.

STATEMENT OF GRETCHEN K. STRONG, TOWN OF TREMONT, BERNARD, ME

Ms. **Strong**. Senator Wallop, Senator Mitchell, members of the committee, my name is Gretchen Strong. I'm the town manager of Tremont, a community of four villages located on the western side of Mount Desert Island, and I'm very pleased to have this opportunity to express our Selectmen's opinions and concerns about the bill that is before you.

I think, as the other towns have commented on, the problem of establishing fixed boundaries for Acadia has gone on for over 2 decades, and it's just a culmination of a great deal of work by a great many people, and people here perhaps hearing about it for the first time think it's the beginning of a process; it's the end of a process, and we'd really like to see the bill be acted on in a fairly timely manner and the matter settled.

Tremont supports the legislation establishing the fixed boundaries for Acadia Park as it was written, with the exception of the addition of an eleventh island. We found this very disturbing. Islands are a touchy subject in Tremont, I think partly due to the fact that more of them are located within our territory and they're a very important part of our tax base.

Tremont's stand hasn't changed on the number of islands to be acquired since the mediated agreement of 1979, which specified 10 specific islands from several different towns, and at that point all parties concerned—the towns, the Park, and some of the national environment groups; I think it was Destry Jarvis that was talking with the towns at the time—bargained in good faith on this and were in agreement.

Prior to that, in the early 1970's, some groups were striving for no limit on the number of islands, and strong objections were raised at this time by Tremont because under that scheme the tax base of the town would still be threatened and the boundaries would not be permanent if additional property could still be added to the park.

In arriving at those 10 specific islands in 1979 a compromise was reached in which Mount Bilboa property located in the town of Tremont of approximately 150 acres would not be deleted and there'd only be two islands acquired from the town. And now, 10 years later, they've mentioned studies being undertaken before to determine what this unknown island might be, and no studies have been undertaken.

It is not identified and we find this very disturbing, this open-ended viewpoint, and as Senator Wallop said, this Wild Cat Island——

Senator WALLOP. Not Wild Cat—Wild Card.

Ms. STRONG. Wild Card?

Senator WALLOP. That's the game we play in Wyoming. You may play another one in Maine. [Laughter.]

Ms. STRONG. Well, maybe we ought to populate them with wild cats; that might help.

Tremont's opposition to the acquisition of more than the 10 specific islands involves factors in addition to the possible tax loss. We feel a significant public use of offshore islands could have the following negative impacts. One, a threat to significant fisheries in the areas. Fishing is a major source of livelihood for many Tremont families.

Seventy-seven commercial fishing boats work out of Bass Harbor, and the catch for 1984, as recently reported to the U.S. Army Corps of Engineers, was 687 tons of lobster, shrimp, crabs and scallops, and 57 tons of fin fish. An adverse impact, with more traffic in the area, would significantly limit the catch and incomes of many Tremont residents and also those fishermen from surrounding towns and communities.

Two, increased recreational use could easily damage the fragile ecosystems of island environments, which we recognize should be conserved and protected, but we think they are already adequately safeguarded through shoreland zoning ordinance and the use of conservation easements. As you look at one of the large maps of the Acadia area, over 50 whole islands or parts thereof are already thus protected and have remained on the tax rolls.

No. 3, the injection of additional tourists or campers into relatively inaccessible offshore islands we feel would pose a threat to those islands under private ownership. You just have more boats and more people and if an island is full are they going to be intruding on privately-owned property. It could be an administrative and a policing nightmare for the agency involved.

And, fourth, we have heard the opinion voiced by park personnel that they are not in favor of an island for offshore camping, and the numbers served would be very few and the per-user cost is very high. Camping facilities already exist on Isle AuHuat, I believe, and we just feel it's a great deal more important that the park direct its energies and resources to the efficient administration of the scattered facilities it already controls rather than encourage—enlarge their island holdings and their responsibilities.

I think the time is running short. We are in agreement with the other towns and the opinions they have already expressed on eminent domain, conservation easements, the great importance of the National Park Advisory Commission, and the towns 'participation in some of those decisions and judgments that vitally affect their respective communities.

On the lands for solid waste transfer station, we would like that language to be a little bit more flexible. There's another parcel that's scheduled to be deleted that is going to be investigated soon, which might have far lower development costs.

Senator WALLOP. I tell you what. We would invite a specific comment to each or any of those areas.

Ms. STRONG. OK. As the information becomes available to us, we can pass it on to you.

Senator WALLOP. Absolutely.

Ms. STRONG. Because we think the development costs could be less if it proves suitable.

We definitely approve of the grant of $2 million in its total, but it would certainly be more equitable than what we have been receiving in the past.

[The prepared statement of Ms. Strong follows:]

Town of Tremont
Community Building
POST OFFICE BOX 65
BERNARD, MAINE 04612
(207) 244-7204

TO: Senator Malcolm Wallop, Chairman
Senate Subcommittee on Public Lands, Reserved Water and
Resource Conservation
and Committee Members

FROM: Gretchen K. Strong, Tremont Town Manager
for the Selectmen of the Town of Tremont, Maine

RE: Senate Hearing on S-720, the Acadia National Park Boundary
Act of 1985, July 12, 1985

The Town of Tremont is a community consisting of the villages of Bass Harbor, Bernard, West Tremont and Seal Cove, located on the western side of Mt. Desert Island. The community consists of 1222 people and has an ongoing and longstanding interest in the matter being heard today. I am pleased to have this opportunity to express the thoughts and concerns of our municipal officers on the bill now in committee in the Senate and the House to Establish a Permanent Boundary for Acadia National Park.

The problem of establishing fixed boundaries for Acadia National Park is one that has been debated for over two decades. Final resolution is a necessity for the towns involved. Resolution will permit the towns to plan for their economic future with a known tax base. Acadia National Park will be able to plan for effective management and administration of lands within its jurisdiction.

Incorporating The Villages Of
BASS HARBOR BERNARD WEST TREMONT SEAL COVE GOTTS ISLAND

Tremont supports the legislation establishing fixed boundaries for Acadia National Park, as it was written, except for the addition of an 11th island.

ISLANDS are a very touchy subject in Tremont, due in part to the fact that of the Mt. Desert Island towns Tremont has the largest number of islands and they are a very important part of our tax base. Our stand on the number of islands to be acquired in fee has not changed since the mediated agreement of 1979-80, which specified ten named islands; Schoodic Island, Egg Rock and Rolling Island in the Town of Winter Harbor; Bar Island in the Town of Gouldsboro; Baker Island and Federal property on Bear Island in the Town of Cranberry Isles; (2) Green Islands and Drum Island in the Town of Frenchboro and Ship Island and Trumpet Island in the Town of Tremont. All parties concerned - the towns, Acadia National Park and national environmental groups, bargained in good faith on this point and were in agreement.

During the early-to-mid 70s, some environmental groups were striving for no limit on the number of islands to be acquired. They advocated a three year study to determine which islands were wanted. Strong objections were voiced by the Town of Tremont because under that scheme our tax base would still be threatened and boundaries would not be permanent if additional property could be added to the Park. In arriving at the 1979-80 agreement on ten named islands a compromise was reached in which the Mount Gilboa property of approximately 150 acres would not be deleted and there would be only two islands acquired from the Town of Tremont. It is interesting to note that in 1985, ten years later, no study has been undertaken and we are no closer to identifying this unknown island. It would seem that the issue can not be that important if no 11th island has been identified and certainly the towns involved cannot even discuss the issue until the 11th island is named.

Tremont's opposition to the acquisition of more than the above named ten islands by Acadia National Park does involve factors in addition to the possible tax loss. Significant public use of offshore islands could have the following negative impacts:

1. A threat to significant fisheries in the area due to increased traffic, boats and people. Fishing is a major source of livelihood for many Tremont families. Seventy-seven fishing boats work out of Bass Harbor and the catch for 1984, as recently reported to the U.S. Army Corps of Engineers, was 687 tons of lobster, shrimp, crabs and scallops and 57.5 tons of finfish. An adverse impact could severely limit the catch and incomes of many Tremont residents and those fishing the offshore islands from other towns.
2. Increased recreational use could easily damage the fragile ecosystems of island environments, which should be conserved and protected. This protection is aleady safeguarded through our Shoreland Zoning Ordinance and the use of conservation easements. Over fifty whole islands, or parts thereof, in the Acadia Archipelago are already thus protected and have remained on the tax rolls.
3. The injection of additional tourists or campers into relatively inaccessible offshore islands would also pose a threat to those islands under private ownership. It would be an administrative and policing nightmare.
4. The opinion has been voiced by Acadia National Park personnel that they are not in favor of an island for primitive camping and its attendant problems of administration, staffing, protection and

transportation. The numbers served would be few and the per-user cost, very high. We feel that it is more important that the Park direct its energies and resources to the efficient administration of the diverse, scattered facilities it already controls (one of the aims of the legislation) rather than enlarge their island holdings and responsibilities. Acadia National Park officials themselves have also taken this position.

The power of EMINENT DOMAIN is another subject that has generated a great deal of controversy over the years and concessions have been made to arrive at the language in the present bill. Tremont supports the limited powers of eminent domain as written in the bill; i.e. eminent domain proceedings can only be used to clear title to land within the park boundary and on specified parcels if it is determined that they are undergoing or about to undergo changes or development incompatible with the purposes for thich the Park was established. If this power is broadened, in any respect, our support for the legislation would have to be withdrawn.

Tremont supports the concept of CONSERVATION EASEMENTS. Critical areas can be protected and the property remains on the tax rolls. An excess of easements could serve to inhibit planned growth in the communities therefore it is vital that the listed criteria be strictly adhered to.

A very important provision is the establishment of an ACADIA NATIONAL PARK ADVISORY COMMISSION which shall be consulted by the Secretary in matters of development and operation of Acadia National Park, land acquisition and conservation easements. This will be the first time that the affected towns will have an opportunity to be involved in the decisions that vitally affect their respective communities.

Under Section 2 (c) of the bill - LANDS FOR SOLID WASTE TRANSFER STATION - we feel the language should be less restrictive. Another property scheduled for deletion will soon be tested and, if deemed an appropriate site for the location of a solid waste transfer station, development costs could be substantially lower than they would be for the Patty Lot Hill property. Provision should be made for the exercise of that option which best suits the purpose at the lowest cost for both the government and the towns.

The towns impacted by Acadia National Park have been reimbursed for federal ownership of lands under the Payment in Lieu of Taxes Act of 1976. This program has compensated the towns at a maximum of 75¢ per acre and in 1983 the seven Mt. Desert area towns total payment was $22,127 for approximately 30,000 acres. This payment, by any standards, is not adequate as a compensation for taxes lost and services provided. We therefore support the GRANT of $2,000,000 to the affected towns. Seven towns are listed under Section 7 (a); however, this should be ten towns and include the island towns of Cranberry Isles, Frenchboro and Swans Island.

During 1983 a report entitled 'Economic Impact Assessment of the Acadia National Park on Seven Coastal Communities' was prepared by the Hancock County Planning Commission and the Mt. Desert Island League of Towns with a grant from Maine's Coastal Program, through funding provided by the U.S. Department of Commerce, Office of Coastal Zone Management. The purpose of this report was to identify social and economic impacts of Acadia National Park on the costs of municipal services and on the tax base of the affected towns and to compare these towns with comparable lower coastal towns with no federal tax exempt parks. Copies of this report are available.

According to the report Tremont's 2,794 acres of park land have an estimated value of $6,936,600 which translates to an annual tax loss of $73,195 (14.7% of the local budget). We receive approximately $1,900 per year in federal in lieu of tax payments. Our remaining taxable asseta are thus obliged to carry the burden of municipal costs plus the capacity to handle the summer influx of visitors to our part of the island. As municipal costs keep increasing it is difficult to keep the tax rate down, and within the citizens ability to pay, without finding offsetting revenues.

Tremont is a viable, working community of fishing oriented, residential villages and summer residents and is just marginally geared to harvest tourist dollars. According to the figures used by the Office of Revenue Sharing the average per capita income for 1981 was $6,174. Our per capita tax effort for 1985 is $483.00 or 7.8% of per capita income. Loss of revenue from park lands together with the projected loss of Federal Revenue Sharing funds (approximately $32,000) and the action of the State, in 1984, which resulted in a boat tax loss of $25,000 per year raises serious questions of the ability of our citizens to support necessary municipal services.

Much of the charm and attraction of Mt. Desert Island and Acadia National Park is the visual, aesthethic and cultural juxtaposition of mountains, the ocean and working communities. A unique combination that should be preserved. The affected towns provide many of the services necessary for such a large influx of park visitors (road maintenance, fire and police protection, solid waste disposal and water, sewer and electric utilities) and the proposed $2,000,000 grant is a more equitable, although not fully adequate, compensation for taxes lost and services provided.

During the course of negotiations over the past two decades the towns and Acadia National Park personnel have had a good working relationship and have been able to reach compromise agreements on most difficult issues. Controversy usually arose when third party interests entered into the discussion. With the publicity attached to this issue of permanent boundaries, at least in Maine, our positions are well known but we are at a disadvantage in not knowing what the national environmental groups have in mind. We would like to have the right to comment on and rebut their testimony at the end of this hearing.

The above concerns notwithstanding, and with the exception of the 11th island, the Town of Tremont supports the positions of the other towns and is desireous of seeing workable and equitable legislation enacted.

Senator WALLOP. Thank you very much, Miss Strong. I appreciate it, and thank you all.

Senator Mitchell, do you have anything?

Senator MITCHELL. No, Mr. Chairman. I have no questions. I do want to thank our witnesses. I do want to make comment to clarify one point regarding the eleventh island. It was attributed to Mr. Wrye. It was not his suggestion. I want to say that Mr. Wrye and I haven't agreed on everything and I know the testimony of the Park Service opposes some parts of the bill, but I've always found him to be extremely forthright, able, dedicated to the public interest, wanting only to do what is best for all of the people in this country in the area.

So I didn't want to leave any misunderstanding. That was not his suggestion.

Senator WALLOP. Thank you all. I am sure that Mr. Jarvis appreciates your words of support for having been involved in all this, and I think he well deserves it. This has not been easy and, as the witnesses have demonstrated, there is some level of complication yet in front of us. Thank you.

The last panel is Mr. Stephen Smith, town of Mount Desert; Mr. B. Conley Worcester, Jr., Southwest Harbor; and Mr. Jack B. Dyer, who is accompanied by John Baer, Mr. Dyer is a Schooner Head property owner.

Gentlemen, I would remind you again of the time clock and ask you please to observe it. All testimony will be included in the record in its entirety and also all testimony can be expanded upon.

Mr. Smith.

STATEMENT OF STEPHEN SMITH, TOWN OF MOUNT DESERT, NORTHEAST HARBOR, ME

Mr. SMITH. Mr. Chairman, Senator Mitchell, staff members, the addition that my town is referring to is the new subsection (d), to read as follows: "The Secretary is authorized to convey a right of way to Otter Creek for a fisheries landing. This right of way would restore the traditional access to a landing area on tidal shore."

The access I'm talking about is 200 feet long, approximately. This is one of the oldest villages on the island, in which for over 150 years fishing was the sustaining economic activity. This depended upon full access to the sea via the inlet called Otter Creek. This continued through generations until as late as the 1980s. At that time park officials denied access. This occurred because an earlier generous donor had purchased and given the land along Otter Creek to the park without taking into account the traditional fishing practices of the local area.

I supplied additional evidence for the record.

Thank you.

[The prepared statement of Mr. Smith follows:]

AFFIDAVIT

I, Stephen Smith, being duly sworn, depose and say:

1. That I, Stephen Smith, am a fifth generation resident of Otter creek, Town of Mount Désert, County of Hancock, State of Maine.

2. That I am a graduate of Maine Maritime Academy and also that I am a fisherman, a member of the local Harbor Committee, President of the Otter Creek Aid Society, and that I have been asked by the greater Town of Mount Désert to represent the Village of Otter Creek at this committee hearing.

3. That I have personally performed extensive research and examination on the cause and effect which Acadia National Park has had and still has on the Village of Otter Creek and also on its namesake, the body of water known as Otter Creek, now referred to as Otter Cove by the Park Administration.

4. That although I am not a professional authority on matters of such, I nevertheless have substantial experience to testify on this matter.

5. That Otter Creek is one of the oldest villages on the island and evidence shows that it could very well have been the first area with established religion.

6. That Otter Creek is the only village on Mount Désert Island that is completely landlocked by the Park, and that because we have been squeezed into these circumstances we no longer have any available land for trapping or hunting, and woodlots are also a necessary luxury of the past.

7. That my research and examinations of the records of John D. Rockefeller, Acadia National Park, and the Hancock County Trustees of Public Reservations, from its origin, indicate that the land in the vicinity of Otter Creek, on both sides of the harbor, was ear-marked for public lands without any knowledge or representation from the Village of Otter Creek and was acquired and donated for the same without any comprehensive planning by any local planning boards as we know them today.

8. That because of this lack or representation and local imput, vital traditional access areas to our body of water have been steamrolled by the Park Administration and their attitude of "bigger than God". Fishing which was once a mainstay of the village is now nearly extinct, even though its location makes it the closest harbor on the island to any fishing grounds to the south, and lobstering in the outer harbor is some of the best around and is easily fished with a small skiff.

9. That Otter Creek has been virtually choked for use of vessels of any magnitude, or, in fact, any vessel with a mast, because of the Park-owned culvert or causeway which spans our harbor, changing the environment completely. Also, our town road that led to the fish house lots and to the prior drawbridge was absorbed for the Park.

10. That because of our sacrifice to the Park we have absolutely no summer colony because of no waterfrontage. However, we are literally overrun by millions of tourists and campers in the summer months, and, in fact have provided land and sewerage facilities to the Park-owned Blackwoods Campgrounds in our backyard, which accommodates approximately 135-150,000 people per year.

11. That we have been bullied by the Park Service now to the extent that they claim we don't even have the right or privilege of a basic right-of-way to what they say is their cove.

12. That our problems have finally been brought to the attention of the Harbor Committee, the selectmen, senators, lawyers and town meetings over the past several years, to no avail. The Park Service will not budge and says that it will take an Act of Congress for us to once again establish our Town Way and Landing.

13. That we have sacrificed and compromised more than enough and that we wish for our Town Way and Landing to be established as soon as possible, once and for all.

14. That the selectmen and Harbor Committee of Mt. Désert have previously stated that by maintaining our Town Landing in a reasonable condition, the town will be afforded a better opportunity to provide for the just and orderly operation of marine activities in that harbor, and that the landing area is also a possible access for any emergency situation such as fire, marine, or whatever, which is a very important factor to consider.

15. That the people in Otter Creek, and, in fact, the majority of people on Mt. Désert Island feel threatened, intimidated, and helpless by the cancerous effect of the Park, especially with uncontrolled Eminent Domain powers.

16. That the people will not feel secure until a permanent boundary is established with very restrictive Eminent Domain powers given to the Park Service, and that an advisory board be established that, hopefully, will protect what few rights and privileges we have left.

17. That in fact, a permanent boundary is an absolute must for the natives and the Park to be good neighbors and work together in the future. And that I believe it is in the "National Interest" that our problem in Otter Creek be resolved in this bill, for our children and their heritage.

In the recent words of Henry Kissinger, if I am not mistaken,"It is absolutely necessary that the principles of democracy and the rights of the people be respected."

Feel free to contact me at (207) 288-5382.

Respectfully,

Stephen Smith

Stephen Smith

STATE OF MAINE County of Hancock

Subscribed and sworn to, before me, this 8th day of July, 1985.

__________ Notary Public. My Comm. Exp. 3/5/89

1

I am testifying here today about the tradition and customs of the people of Otter Creek which has a total population of about 230. A hundred years ago the people in this tiny village by the sea made their living from fishing, farming, hunting, trapping, etc. Still today, many of us supplement our income as fishermen. Any young person old enough to handle a row boat can catch lobsters and crabs right in their own back yard. There is only one location in the village where there is a road to the water. This road has been used for at least 88 years for launching and hauling boats, and as an access road to the landing area on the shore, where a boat can be beached and cargos of various kinds can be transferred or stored for convenience. The activities that take place at this landing area are low key by nature, thereby creating very little pressure on the surrounding environment. This right of at the request of O.C. Residents way and landing was established by the Town of Mt. Desert in 1897. When the park loop road was built in 1936 with a man made jetty and granite causeway spanning our harbor, our navigation was restricted to smaller vessels with no masts. At this time the Town Landing was discontinued on paper at the request of John D. Rockefeller. Otter Creek never really got up in arms because subsequent to that action the roadway was never blocked off and the people continued to use the area the same as always. I personally know of at least 20 people who have used this roadway and landing in the last 50 years without any problem of it ever being blocked off. The condition of the area declined over the years from lack of proper maintenance until 1978 when the Town voted to once again establish this right of way and landing to provide a reasonable access for the people of Otter Creek. Without this access, additional and unnecessary burdens hinder any activities in this area. I personally need this landing area to conduct any fishing activities in a reasonable manner. I'll testify that it's a hard life as a fisherman and that I don't need additional hardships on shore. I am now hereby requesting on behalf of the village that the Town of Mt. Desert be allowed to establish our right of way and landing. I personally was restricted by the Park Superintendent last year from launching my 16' skiff and from hauling another larger boat because of 2 large stones placed in the roadway blocking it off. Myself and other people in the village have been pushed to our limits on the issue of our rights to the water and if necessary, we have not begun to fight. Also, Two lots in this bill that are up for acquisition by the Park and need mentioning are lot # 30 AMN and lot #31 AMD. These lots are what is left of our "fish house lots" and under no condition should they be acquired by the Park unless future use of these lots becomes inconsistent with the original deed designation. i.e. fishhouse lots. Lot #30 AMD has been deeded to the Otter Creek Aid Society with the stipulation that it be available for the Otter Creek fishermen forever and be maintained by the same. Lot #31 AMD is in the process of being protected for the fishermen under the same restrictions. The Otter Creek Aid Society is a non-profit organization formed in 1901 to help with matters of importance in the village in co-operation with the church. It also owns the local community building in Otter Creek. These two lots are what we have left of a larger fish house lot on what is called the fishermens landing adjacent to where larger boats are moored in the outer harbor. This area is an important part of our heritage and should be preserved at all costs. This fishermen's landing, not unlike the town landing at the head of the Creek, is also contested by the Park as to the validity of our right to this area. There should be no question of our rights to this area. I have suffered defamation of character, and my family and I, have gone through 7 years of hardship and mental anguish to finally prove our right to this area in the United States District Court.

Resp
Stephen Smith

To Sen Cohen

Dear Senator Cohen,

Due to the lack of time @ the 2 o-clock meeting on July 11, 1985, I would like to express a couple of points in this note

First, I believe it should be noted that in a pamphlet on the "Acadia Nat Park Master Plan", put out by the Nat Park Service in 1976, the Parks position on Eminent Domain was definitely on a willing buyer, willing seller basis. they should be held accountable.

Second although specific problem areas are not mentioned in either ~~in~~ yours or Sen Mitchells testimony, reference is given on page 4 of Sen Mitchell's as to what lands satisfy the national interest in a way that is fair to local residents and also that this bill must reflect the realities presented by the area in which the Park is located" that it is not an undeveloped pristine area and that it does and must co-exist with fishing villages and very settled towns. Otter Creek is the prime example of this point and the slightest investigation will show this.

Thank you for your attention, Rise Fisher-Smith

Capital Hill Quality inn rm 1002 tel: 638 1616

TOWN OF MOUNT DESERT
MUNICIPAL OFFICE
NORTHEAST HARBOR, MAINE 04662
TELEPHONE 276-5531

[illegible]

ACTING ASSESSOR
JOHN N. SMALLIDGE
TREASURER AND COLLECTOR
CARLO A. NINFI
TOWN CLERK
FREDERICK E. BROWN

ADDRESS OFFICIAL COMMUNICATIONS TO NORTHEAST HARBOR

September 26, 1984

Board of Selectmen
Town of Mount Desert
Northeast Harbor,
Maine 04662

Gentlemen:

It has come to the attention of the Harbor Committee, from a member of this committee, that the National Park Service has placed two large granite stones in the roadway formerly known as the Otter Creek Town Way and Landing, thereby blocking any use such as launching or hauling out of boats causing considerable hardship for some inhabitants of the village of Otter Creek.

Currently there are two boats, one to be hauled up and one to be launched that cannot be moved on account of the granite blocks. This Way is the only direct connection between the village of Otter Creek and its namesake the body of water known as Otter Creek.

Therefore, this Committee voted unanimously at its regular meeting September 25th to recommend to the Board of Selectmen that they respectfully request the National Park Service, in writing, to remove these large granite stones so as to relieve the hardship that has been created.

Respectfully submitted,

Dana R. Haynes

Dana Haynes, Chairman,
Harbor Committee

TOWN OF MOUNT DESERT
MUNICIPAL OFFICE
NORTHEAST HARBOR MAINE 04662
TELEPHONE 276-[illegible]

BOARD OF SELECTMEN
JOHN S. FERNALD JR. Chm.
MILES K. GRINDLE Sec'y
DORIS F. LUNT JR.
TOWN MANAGER
LEONARD H. KYLE
CHIEF OF POLICE
TYRONE M. SMITH

ASSESSING OFFICER
PEARL BORDEAUX
TREASURER AND COLLECTOR
CARLO A. NINFI
TOWN CLERK
FREDERICK E. BROWN

ADDRESS OFFICIAL COMMUNICATIONS TO NORTHEAST HARBOR

June 21, 1983

Mr. James S. Haskell, Jr.
Executive Director
Hancock County Planning Commission
69 Main Street
Ellsworth, Maine 04605

Dear Jim:

At the last regular meeting of the Town of Mount Desert Board of Selectmen held Monday, June 20, 1983, they agreed to have you represent them and the residents of Otter Creek on future meetings to be held with Park Officials in an effort to draft proper legislation to re-establish the former Town Way and Town Landing in Otter Creek that was discontinued by the Town at its annual Town Meeting held March 2, 1936. We would like to be informed of all discussions and tenative agreements relative to this matter.

Also, enclosed please find Suggested Revision of Sec. 2 (b) of the third draft of the proposed legislation recently received from Senator Mitchell's Office, which has been approved by the Selectmen, and which they feel should be made part of this Bill.

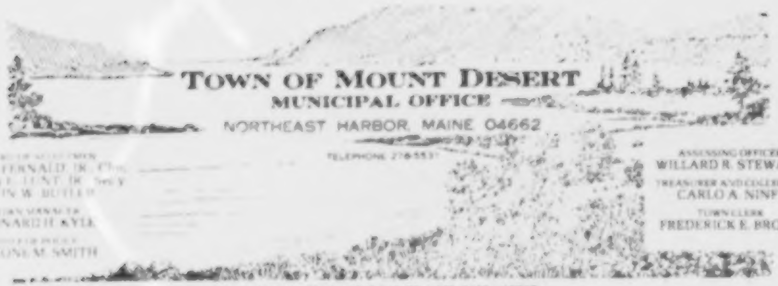
Give me a call if you have any questions.

Very truly yours,

Leon

Leonard H. Kyle
Town Manager

LHK:k
Enc. 1



TOWN OF MOUNT DESERT
MUNICIPAL OFFICE
NORTHEAST HARBOR, MAINE 04662
TELEPHONE 276-5531

BOARD OF SELECTMEN
JOHN S. FERNALD, JR., Chm.
[illegible] E. LUNT, JR., Sec'y
JOHN W. BUTLER
TOWN MANAGER
LEONARD H. KYLE
CHIEF OF POLICE
TYRONE M. SMITH

ASSESSING OFFICER
WILLARD R. STEWART
TREASURER AND COLLECTOR
CARLO A. NINFI
TOWN CLERK
FREDERICK E. BROWN

ADDRESS OFFICIAL COMMUNICATIONS TO NORTHEAST HARBOR

March 22, 1984

Mr. Bernard C. Staples
Attorney at Law
P. O. Box 237
Bar Harbor, Maine 04609

Re: Public Landing, Otter Creek, Maine

Dear Bernie:

The Town of Mount Desert Board of Selectmen would like to have you initiate proper legal action in order to resolve a dispute over the status of the Public Landing at Otter Creek, Maine.

It is agreed that the best course of action would be to bring a Complaint in the Superior Court, asking the Court to render a Declaratory Judgment, establishing that the public has acquired by prescription a right of way over the area in question.

Stephen Smith informed me that you have my file containing all the information regarding this issue but if I can be of any further help, please let me know.

Very truly yours,

Len

Leonard H. Kyle
Town Manager

LHK:k
copy: Stephen Smith
Board of Selectmen

KNOW ALL MEN BY THESE PRESENTS

THAT, We, AUSTIN WALLS, CHARLES WALLS, SAM WALLS, EVERETT WALLS and ELSIE WALLS, all of Otter Creek, Town of Mount Desert, Maine, and ANITA MERCHANT, of East Corinth, Maine, and MELINDA SACCONE, of 529 Lloyd Road, Matawan, New Jersey, and Frances OTILDA DODGE, of 1749 East Rodney, French Blvd., New Bedford, Massachusetts, being all the heirs-at-law of Samuel J. Walls, late of said Otter Creek, Town of Mount Desert, Maine, deceased, for consideration paid, RELEASE to THE AID SOCIETY OF OTTER CREEK, MAINE, a charitable corporation organized under the laws of the State of Maine, and located in said Otter Creek, Town of Mount Desert, Maine, a certain lot or parcel of land situated in said Otter Creek, Town of Mount Desert, Hancock County, Maine, and being bounded and described as follows, to wit:

> a certain lot or parcel of land situated in the West side of Otter Cove in the Town of Mount Desert, County of Hancock, State of Maine, bounded and described as follows:
>
> Beginning at Point Y (PT. "Y"), as shown and designated on plan entitled "U.S.A. v. STEPHEN SMITH USDC, MAINE, CIVIL NO. 78-27-B LOCATION AND DETAIL SURVEY OF FISH HOUSE LOTS OTTER COVE, MOUNT DESERT, MAINE" dated June 27, 1983; said Point Y located North seventy-six degrees forty-eight minutes thirty seconds West (N. 76° 48' 30" W.) eleven hundred sixty-four and forty-three hundredths (1,164.43) feet from National Park Service Monument FM-2 shown and designated on said plan; thence North three degrees no minutes East (N. 3° 00' E.) twenty-two (22.00) feet; thence North eighty-seven degrees no minutes West (N. 87° 00' W.) twenty-two (22) feet more or less to the ledge; thence southerly following along said ledge twenty-two (22) feet more or less to a point on line bearing North eighty-seven degrees no minutes West (N. 87° 00' W.) from said point of beginning; thence South eighty-seven degrees no minutes East (S. 87° 00' E.) twenty-two (22) feet more or less to the point of beginning. Reference meridian is magnetic North as oriented to National Park Service Monuments FM-1 and FM-2 shown and designated on aforesaid plan of Fish House Lots.
>
> Meaning and intending to convey and hereby conveying the premises conveyed by deed of William H. Walls to Samuel J. Walls, dated June 14, 1873 and recorded in Book 148, Page 415 of the Hancock County, Maine, Registrry of Deeds.
>
> By the acceptance of this deed, the Grantee herein covenants with the Grantors herein as follows:
>
> (1) That the land conveyed by this deed shall always be available to the residents of Otter Creek to be used for access to the water for the purpose of fishing.

(2) That the land conveyed by this deed shall be kept and maintained by the Grantee herein free of obstruction by natural vegetation or otherwise.

(3) That the land conveyed by this deed shall not be ever placed in private or public ownership so as to prevent its being - available to residents of Otter Creek or to be used in a manner inconsistent with the purposes stated above.

WITNESS our hands and seal this 12th day of ~~May~~ June, 1985.

Austin Walls
Austin Walls

Charles Walls

Sam Walls

Everett Walls
Everett Walls

Elsie Walls

Anita Merchant

Melinda Saccone
Melinda Saccone

Frances Otilda Dodge
Otilda Dodge

STATE OF MAINE
Hancock, ss

~~May~~ June 24, 1985

Personally appeared the above named AUSTIN WALLS and acknowledged the foregoing instrument to be his free act and deed.

Before me,

~~Notary Public~~ - Justice of the Peace

BERNARD C. STAPLES
(Type or print name of Notary Public or Justice of the Peace)

WILLIAM S. COHEN
MAINE

United States Senate
WASHINGTON, D.C. 20510

January 2, 1985

Mount Desert
Board of Selectmen
Durline E. Lunt, Jr.,
John W. Butler, and
Richard M. Savage II
Northeast Harbor, Maine 04662

Gentlemen:

Thank you for providing me with a copy of your letter to the Department of the Interior concerning a public right-of-way at the Otter Creek Landing.

I, too, have contacted the Department of the Interior in an effort to establish the legal useage of this former town way. I'll be back in touch with you as soon as I have any information to share.

With best wishes, I am

Sincerely,

William S. Cohen
United States Senator

WSCsal

OLYMPIA J. SNOWE
2nd District, Maine

Committees
Foreign Affairs
Joint Economic Committee
Select Committee on Aging

Washington Office
133 Cannon House Office Building
Washington, D.C. 20515
(202) 225-6[illegible]

Congress of the United States
House of Representatives
Washington, D.C. 20515

District Offices
●
In Maine Call Toll Free
1-800-432-1599
●
Federal Building
202 Harlow Street, Room 209
Bangor, Maine 04401
(207) [illegible]-0422
●
148 Main Street
Auburn, Maine 04210
(207) 786-2451
●
187 State Street
Post Office Box 722
Presque Isle, Maine 04769
(207) 764-5124

January 7, 1985

Durlin E. Lunt, Jr.
Mount Desert Board of Selectmen
Municipal Office
Northeast Harbor, Maine 04662

Dear Durlin:

I wish to thank you and the other members of the Mount Desert Board of Selectmen for forwarding to me a copy of your letter to the Secretary of the Interior, William P. Clark.

I have written to Mr. Clark, and I have asked him to give your letter his consideration. I can certainly understand your point of view that the Otter Creek Landing should be a public right-of-way. I will certainly share any response I receive from the Department of the Interior on this matter.

I appreciate the Town of Mount Desert's interest in resolving this matter. I hope that you will not hesitate to contact me again about this or other matters of particular concern to you.

Sincerely,

Olympia

OLYMPIA J. SNOWE
Member of Congress
2nd District, Maine

OJS:as

Senator WALLOP. Thank you, Mr. Smith. We have that and will look forward to any other additions you wish to put in.

Mr. Worcester.

STATEMENT OF B. CONLEY WORCESTER, JR., PRESIDENT, ISLAND LAND CORP., SOUTHWEST HARBOR, ME

Mr. WORCESTER. I'm Conley Worcester, resident of Southwest Harbor, Maine. I'm testifying on behalf of myself, other members of my family, and Island Land Corp., which is a private corporation.

At the present time we own six parcels of property containing 72 acres within the proposed park boundary in the towns of Southwest Harbor and Tremont. We will also have a common boundary with the proposed park boundary of approximately 3½ miles, so consequently we feel we have a legitimate concern with this legislation.

We agree with the concept of a permanent boundary for Acadia National Park. However, we disagree with the proposed legislation on the following points. First—which Senator Mitchell referred to—no provision is made to identify the boundary on the face of the Earth or to pay for having it done.

Item 2: The boundary should be improved and areas in the map corrected before it is finalized.

Item 3: No attempt has been made to negotiate with private owners within the proposed boundary.

Item 4: The establishment of a boundary should have no adverse effect on the access to private property within that area.

Item 5: No conservation easement should be allowed outside the boundary.

Item 6: The financial resources to accommodate the proper maintenance of present park properties should be provided before gifts to the towns.

And, Item 7: No need for the right of eminent domain has been demonstrated.

I would like to comment on each of these. First, people should definitely know when they go from private property to Federal property and vice versa. Different regulations apply and I believe different laws and courts have jurisdiction.

Item 2: No provision is made to improve the patchwork condition of the boundary; permit the exchange of property needed for improvement; or correct errors in the map. If you will look at the boundary in some detail you will notice that it is a patchwork. In many places it has several changes in direction over short distance. In many areas the nooks and corners provide no benefit to the resources of Acadia National Park.

These are due to the acquisition programs of the past and should be corrected before a permanent boundary is established. On April 25 of this year I met with Superintendent Wrye to verbally discuss an exchange of property. On May 2 of this year I sent Superintendent Wrye a proposal, modified slightly by a letter dated July 8, to trade approximately 113 acres to the park in exchange for 90 acres, most of which is outside the property boundary.

While this straightens over 2 miles of boundary with the park, it does not conform strictly to the proposed boundary in the legislation. We feel this type of trade should be allowed to be consummated.

There are errors in the proposed boundary and in the identification of the property within it. Island Land Corp. owns one parcel identified as owned by the park. These are further reasons for the boundary maps to be examined more closely.

Item 3: About 1977 to 1978 we held discussions with the park to trade for land we now own within the proposed boundary. As far as we remember—the only reply was verbal was that they were not allowed to do so. Since then we have not had any inquiry initiated by the park, and we feel that if it wishes to include parcels within a boundary that negotiations should be held with the owners involved. We must assume since they haven't been held with us that initiatives haven't been carried to other private owners.

Item 4: The right of access over park property either by necessity or by normal routes to private property does not seem to be addressed in the legislation. We believe it should not adversely affect the private landowner.

Item 5: The acceptance of conservation easements will increase the effect of the park and decrease the growth of the town in the future. We feel they should not take place. Recently the park acquired an area called the Carroll Farm, and they used my own private driveway for their access. The park says they do not have the funds to provide their own access over their own property. We feel that these and other matters of maintenance which are very poor on the western side of the island should take some precedence over other monetary gifts.

Last, we do not feel there's been any demonstration of the need for eminent domain.

Thank you.

[The prepared statement of Mr. Worcester follows:]

TESTIMONY OF
G. CONLEY WORCESTER, JR.
BEFORE SENATE SUBCOMMITTEE ON PUBLIC LANDS
RE: BOUNDARY OF ACADIA NATIONAL PARK
FEB - 1985

I am Conley Worcester a resident of Southwest Harbor, Maine testifying on behalf of myself, other members of my family and Island Land Corporation of which I am President.

At the present time we own [illegible] parcels of property containing 72.5 acres within the proposed Park boundary in the Towns of Southwest Harbor and Tremont, we also will have a common boundary with the proposed Park boundary of approximately 3.5 miles. Consequently, we feel we have a legitimate concern with the proposed legislation.

We agree with the concept of a permanent boundary for Acadia National Park. However, we disagree with the proposed legislation on the following points:

ITEM 1. No provision is made to identify the boundary on the face of the earth or to pay for doing so.

ITEM 2. The boundary should be improved and errors in the map corrected before the boundary is finalized.

ITEM 3. No attempt has been made to negotiate with private owners within the proposed boundary.

ITEM 4. The establishment of a boundary should have no adverse effect on the access to private property.

ITEM 5. No conservation easement should be allowed outside the boundary.

ITEM 6. The financial resources to accomodate the proper maintenance of present Park properties should be provided before gifts to the Towns.

ITEM 7. No need for the right of eminent domain has been demonstrated.

I would like to comment further on each of the above.

ITEM 1. People should definitely know when they go from private property to Federal property and vice-versa. Different regulations apply and I believe different laws and courts have jurisdiction. I will give you examples.

a. I did not realize it was improper to pass thru Park roads with brush in my truck until stopped by a ranger with flashing lights and a bristling badge. I had just left our property on a road jointly owned by the Park and ourselves.

b. We raise blueberries commercially. Rangers send people to our general area to pick berries free on Park land. Naturally the berries look better on our property which they feel belongs to the Park.

ITEM 2. No provision is made to:

a. improve the patchwork condition of the boundary.

b. permit the exchange of property needed for improvement.

c. correct errors in the map.

If you will look at the boundary in some detail, you will notice that it is a patchwork. In many places it has several changes in direction over short distances. In many areas the nooks and corners provide no benefit to the resources of Acadia National Park.

These are due to the acquisition program of the past and should be corrected before a permanent boundary is established.

On April 25, 1985, I met with Superintendent Frye to verbally discuss an exchange of property. On May 2, 1985, I sent Superintendent Frye a proposal modified slightly by a letter dated July 8, 1985 (both of which are attached) to trade approximately 115 acres to the Park in exchange for 90 acres, most of which is outside the property boundary. While this straightens over 2 miles of boundary with the Park, it does not conform strictly to the proposed boundary in the legislation. We feel this type of trade should be allowed to be consummated.

There are errors in the proposed boundary and in the identification of property within it. Island Land Corporation owns one parcel identified as owned by the Park. This is further reason for the boundary and maps to examined more closely.

ITEM 3. About 1977 or 78 verbal discussions were held with Acadia National Park to trade for land we now own within the proposed boundary. As far as we remember, theonly reply (verbal) was that they were not allowed to do so. We have not had any inquiry initiated by the Park since then. If the Park wishes to include parcels within the proposed boundary, we feel they should initiate negotiations with the owners involved. We must assume that no initiative by the Park has until now been made to other private owners.

ITEM 4. The rights of access over Park property either by necessity or by normal routes to private property does not seem to be addressed in the legislation.

We do not believe it should adversely affect the private owner.

ITEM 5. The acceptance of conservation easements outside the boundary would continue to severely limit the growth of the Towns concerned and consequently decrease future tax valuation. We feel that no easements should be accepted by the Park outside the boundary.

ITEM 6. Since the Park acquired a parcel of property known as "The Carroll Farm", it has used my private residential driveway for access. The Superintendent has informed me that they do not have funds to build their own access over their own property. We have even agreed to provide the bull dozing. Other maintenance of Park property such as signs, trails and roads on the Western side of the Island are not in good condition. While understanding that this bill does not appropriate funds we feel the negligence of present needs should be addressed before million dollar gifts are made.

ITEM 7. Until such time as the Secretary of interior can show that the resources of Acadia National Park cannot be protected by negotiation with the private sector, we do not feel he should have the right of emminint Domain for Acadia. We do not feel this need has been shown.

I thank you for the opportunity to testify.

P. Conley Worcester, Jr.
P.O. Box 767
Southwest Harbor, Maine 04679

May 2, 1985

Superintendent Ronald Wrye
Acadia National Park
Bar Harbor, Maine 04609

Dear Mr. Wrye:

As you requested at our meeting on April 25, 1985, the following is a proposal for property exchange between Island Land Corporation and Acadia National Park as well as other items concerning the boundary of the Park.

1. Objectives: The objective of this proposal is basically the same as one made by us a few years ago which had no reply from the Park Service. The objectives are:

a. To straighten and clarify the boundaries between the Park and the private sector allowing the average person to know when they are on Park property.

b. To exchange those parcels we own that are within the area of interest to the Park for parcels now owned by the Park which are adjacent to other property we own.

c. To keep the acerage of property exchanged approximatly the same, so that the taxable base is not basically changed.

2. Errors in Present Maps:

a. Island Land Corporation owns a parcel of property shown on Southwest Harbor Tax map as lot 3-76 and is about 900 ft. NE of Park lot 19 ASW. This lot is erroneously shown on Park maps as Park property.

b. Both the Park maps and Southwest Harbor Tax maps show a jog in the property line near the junction of the Old County Road to Southwest Harbor and the Lurvey Spring Road or Echo Lake Road. For your clarification we enclose a copy of a plan by Robert Raynes filed in the Registry of Deeds on January 19, 1970. The point in question is identified on the plan.

3. Property Line of Carroll Farm (Park): This property was surveyed by Robert Raynes 4 or 5 years ago for the National Park. We do not believe this plan or any other plan has been referred to in deeds, filed in the Regisrty of Deeds or accepted by us. We own on most of the southwest boundary. We would like to reach agreement on this boundary.

4. Entrance to Carroll Farm: The present access to this property from Rt. 102 is over a private driveway to my residence substantially improved and maintained at my expense. The acquisition of the Carroll Farm by the Park substantially increased the vehicular traffic.

You indicated that the Park plans to build it's own entrance from Rt. 102 but not this year, as I had hoped. Any efforts to speed up the building of an access on Park property would be appreciated. We would be pleased to do the necessary bull dozing if that would help.

5. Rod and Gun Club: We had previously agreed to give the Island Rod and Gun Club a piece of property to establish a club house and conduct other activities associated with their association. We feel there is the need for this type of organization and the local police have encouraged us to assist in making an organized place available for this type of activity.

For access to this property there was a need to pass over Park property which was refused. Somehow, we would like to find a parcel that is acceptable to the Park, the organization, and to us. Your staff has suggested lot 4 DBH for this purpose.

6. Parcels going to the Park:
   a. Parcels identified by Park as:
      lot 16 ASW
      lot 10 ASW
      lot 8 ASW
      lot 12 AT
   b. Southwest Harbor Tax map lot 3-76 reffered to in paragraph 2-a.
   c. Southwest Harbor Tax map lots 3-63 and 2-37 adjacent to or near 10-ASW.

7. Parcels going from Park to Island Land Corporation:
   a. Parcels identified by Park as:
      lot 1 DSW
      lot 2 DSW

8. Other exchanges to straighten property lines which involve only portions of parcels to be exchanged:

a. Establish a straight property line from point 1 on attached plan following the northerly boundary of lot 15 A in the same direction to Rt. 102. This is between point 1 and 2 shown on the attached Southwest Harbor Tax plan #3.

b. Continue the buffer zone from point 3 on the map to the land of Robert Raphael point 4 at approximately the same width 50' to 100' along Echo Lake or Lurvey Spring Road where Island Land Corporation now owns to conter line of road. Island Land would reserve an access and right to raise blueberries.

c. From point 5 on the Long Pond Road, on attached Southwest Harbor Tax map 3 extend a straight line on the same course as the northwest line of Sullivan property to point 6 on the map. This would provide a straight property line approximately 6000 feet long. Thence from point 6 to the seal Cove Road point 7.

d. Starting at the SE corner of (2 DSW Park identification) or Point 8 on map thence following present Park boundary SE to Point 9 thence in a straight line to the NE corner of (6 ASW Park identification) point 10, thence along NE line of (6 ASW Park identification) to point 11 thence in a straight line to NW corner of (8 ASW Park identification) point 12 thence to NE corner of (8 ASW Park identification) point 13 thence following NE line of

(3 [illegible] Park identification) in a southerly direction which continues as a Park boundary.

9. The attached plans identify those properties we have included in the proposed exchange. Our calculations indicate about 95 acres going into the Park and 90 acres returning to the private sector. We do not believe those properties returning to the private sector involve any critical ecological concerns or future projects of the Park. The consumation of this exchange would clarify several miles of present Park boundary and would make possible easy identification and upkeep of 2 or 3 miles of new Park boundary.

Island Land Corporation is a family owned corporation of which I am President and majority stockholder.

I appreciate your taking the time to discuss this last Thrusday and I look forward to to further discussion after you have received this. If we can clarify any of the proposal, please do not hesitate to contact me. Home phone: 244-5650
7871
Office: 244-9033

Sincerely,
B Conley Worcester Jr
B. Conley Worcester, Jr.

R. Conley Worcester, Jr.
P.O. Box 7[illegible]7
Northeast Harbor
Maine 0466[illegible]

[illegible] 8, 1985

Superintendent [illegible] Frye
Acadia National Park
Bar Harbor, Maine 04679

Dear Mr. Frye:

Thank you for your letter of June 24, 1985 acknowledging the receipt of our proposal dated May 2, 1985 and a current status report.

We would like to correct our comment in item 9 of our proposal concerning acreages we estimate going to the Park. It should have been 113 acres instead of 95 acres. They consist of the following.

5ASW	10.0
8ASW	9.0
10ASW	16.0
16ASW	18.0
12AT	12.5
* S.W.H. Tax Map 3-76	7.0
Total within proposed boundary	72.5
Other:	
S.W.H. Tax Map 2-35	[illegible].5
3-62	30.0
Border along Echo Lake	-
Lurvey Spring Road	3.0
	114.0

* Shown as Park property on your map.

Some new lots [illegible] and [illegible]ASW were not included in our total of 95 acres.

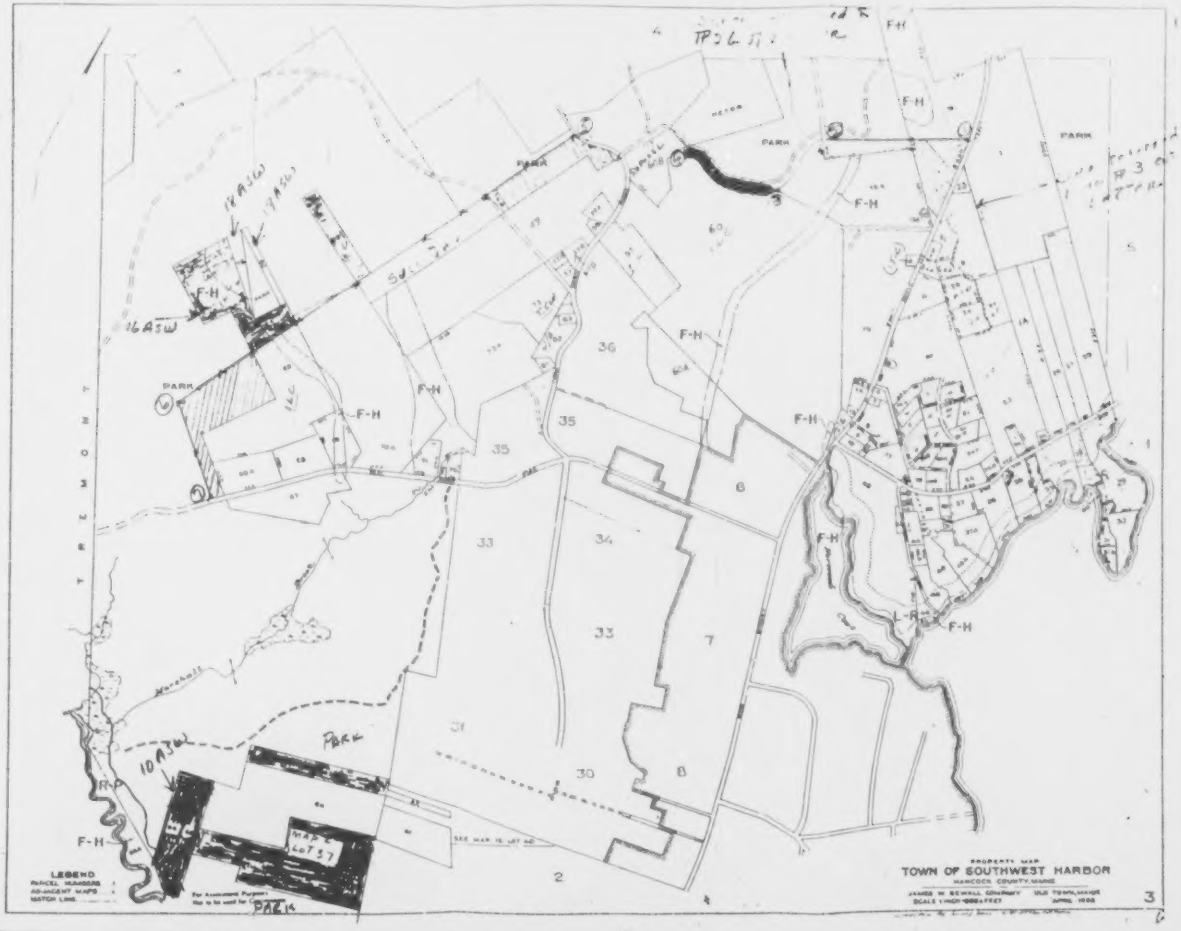
Sincerely,
R. Conley Worcester Jr.
R. Conley Worcester, Jr.

cc. Kevin Haye, Rep. Olympia Snowe's Office

①- Points referred To IN Letter

▬ Property From [illegible]

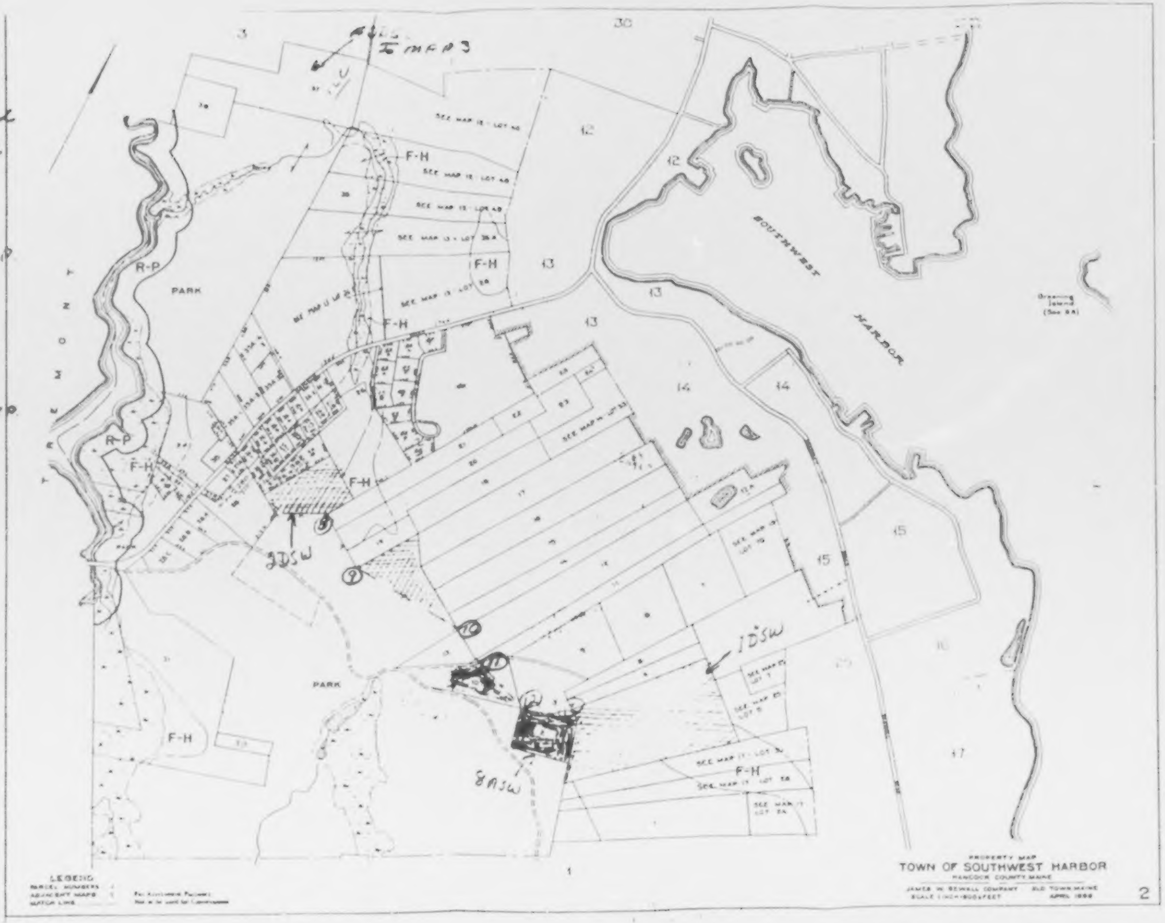
▨ Property From A.N.P. to Island [illegible] Corp.


PROPERTY MAP
TOWN OF SOUTHWEST HARBOR
HANCOCK COUNTY, MAINE
JAMES W. SEWALL COMPANY OLD TOWN, MAINE
SCALE 1 INCH = FEET
APRIL
3
LEGEND
PARCEL NUMBERS
ADJACENT MAPS
MATCH LINE
For Assessment Purposes
TREMONT
PARK
Park
F-H
R-P
MAP 2 LOT 57
PAR 14
10ASW
16ASW
18ASW
19ASW
TP26 R
2
7
8
30
31
33
34
35
36
60B

① POINTS referred
TO IN LETTER

▬ PROPERTY FROM
ISLAND LAND CORP
TO A.N.P.

▨ PROPERTY FROM
A.N.P TO
ISLAND LAND CORP


3
30
See I MAPS
SOUTHWEST HARBOR
Greening Island (See 9A)
12
13
14
15
16
17
42
43
F-H
R-P
PARK
TREMONT
3DSW
IDSW
8ASW
⑧
⑨
⑩
⑪
SEE MAP 13 - LOT 40
SEE MAP 17 - LOT 5A
1
2
LEGEND
PARCEL NUMBERS
ADJACENT MAPS
MATCH LINE

PROPERTY MAP
TOWN OF SOUTHWEST HARBOR
HANCOCK COUNTY MAINE
JAMES W. SEWALL COMPANY OLD TOWN MAINE
SCALE 1 INCH = 800 FEET APRIL [illegible]

Senator WALLOP. Thank you, Mr. Worcester.
Mr. Dyer.

STATEMENT OF JOHN B. DYER, SCHOONER HEAD PROPERTY OWNERS, BANGOR, ME

Mr. DYER. In discussing today the bill proposed by Senator Mitchell I intend to address exclusively the matter of Schooner Head and the nine privately owned properties comprising that 35-acre tract.

One might be tempted to dismiss the Schooner Head properties as a minor and parochial interest, but during the now 20-year debate over Acadia National Park there has been no single issue which has commanded more attention than the Schooner Head properties, and no subissue has been more hotly contested than the related questions of whether Schooner Head should be included within the Park's boundaries and whether the Secretary of the Interior should be given the exclusive authority to seize those properties by eminent domain.

Schooner Head has, therefore, become a microcosm for the entire debate over Acadia National Park. The Schooner Head residents for whom I've been asked to speak today, join with me in commending Senator Mitchell for his work on this bill. We unanimously endorse the bill he has proposed as an artful compromise.

Schooner Head property owners would not be pleased with the loss of property value to be expected from any dilution in the usual rights of ownership, an event we would have reason to expect from this bill. We have invested in those properties both money and sentiment for as many as 3 generations. Nonetheless, we do respect the public's call to be unusually compromising and to be especially responsible as the stewards of a property of special importance to Maine and apparently to the Nation itself.

We hope you will agree that Senator Mitchell's bill should be passed without change so far as Schooner Head is concerned. We hope, too, that you will resist the request from conservationists and environmental lobbyists who would doctor the bill at this eleventh hour. The conservationist lobbyists and the National Park Service would attempt to thrust Schooner Head into an expanded Park boundary and to seek sweeping powers of condemnation over that property. We would, therefore, offer these four opposing views for your consideration.

First, there would be only one reason to alter Senator Mitchell's bill to include Schooner Head within the permanent park boundaries, that being to later take the properties by eminent domain. If I misunderstand the position of the National Park Service and/or the conservationists in this regard, I hope they will simply make their position clear and join with the Schooner Head residents and with the Town of Bar Harbor and indeed with the entire Maine delegation in endorsing Senator Mitchell's bill exactly as it stands today so far as Schooner Head is concerned.

I would also ask them to acknowledge that the Schooner Head properties contain only 35 acres, no more than one-tenth of 1 percent of the existing land mass for Acadia National Park. Importantly, it would also be important to recognize that the cost to the public for acquiring the Schooner Head portion would cost approximately $5.5 to $7 million or $150,000 to $200,000 per acre to acquire those properties and then to proceed to demolish the buildings, roads and utilities to accomplish their end.

The opponents to this bill, especially the conservationist lobby, would have us think Schooner Head should be kept undeveloped if only the National Park Service were given the opportunity to acquire the Schooner Head properties. This is a false impression. During recent decades, while the National Park Service and others have repeatedly passed up opportunities to buy Schooner Head properties at bargain prices, virtually every lot on Schooner Head has been developed.

There is scarcely one left. One could hardly imagine a less timely or more profligate investment than the one that the National Park Service and the conservationist lobby would hope to make now at Schooner Head, if they can persuade you to change Senator Mitchell's bill.

Second, it is important to note that the National Park Service has found itself apologizing in recent years about inadequate funds to maintain Acadia National Park. One has to wonder about the wisdom of giving to the National Park Service yet more land, at great expense in the case of Schooner Head, when the National Park Service is apparently unable to manage effectively the vast property it already has.

Third, those who include Schooner Head within the park boundaries fail to recognize the important historic relationship between Schooner Head and Bar Harbor as a town. Schooner Head has been an important outlying neighborhood for Bar Harbor ever since the inception of the town over 100 years ago. It has been populated ever since then, except for a period following a fire in 1947. Today many of Schooner Head's residents figure prominently in the life of the town. Needless to say, the Schooner Head property owners also make major financial contributions to the town in the way of property taxes.

The conservationists' determination to eliminate the now year-round Schooner Head community would not serve any manifestly important or justifiable public purpose and would, therefore, be a perversion of the eminent domain police power they seek.

Fourth, broad powers of eminent domain vested in the Interior Department for the purposes of expanding the National Park Service has proven to be an unwise public policy. The lurid details of examples involving National Park Service activities in the Kings Canyon National Park in California are part of my written testimony.

The Schooner Head residents would acquiesce to the kind of eminent domain privilege set out in Senator Mitchell's bill for Schooner Head, but we would ask you to deny to them the Pandora's box of privileges sought by those who would revise Senator Mitchell's bill.

In conclusion, for these and other reasons we and the other owners of Schooner Head, joined by the entire Maine delegation and all of the towns concerned, encourage you to enact Senator Mitchell's bill exactly as it has been presented so far as Schooner Head is concerned.

[The prepared statement of Mr. Dyer follows:]

Testimony before U.S. Senate Subcommittee on Public Lands, Reserved Water and Resource Conservation

By John B. Dyer, A Resident of Bangor and Bar Harbor, Maine
on behalf of the owners and residents of Schooner Head in Bar Harbor.

July 12, 1985

Introduction

In discussing today the bill proposed by Senator Mitchell, I intend to address exclusively the matter of Schooner Head and the 9 privately-owned properties comprising that 35-acre tract. During the now 20-year debate over Acadia National Park, no single issue has commanded more attention than the fate of Schooner Head; and no sub-issues have been more hotly contested than the related questions of (i) whether Schooner Head should be included within the park's boundaries, and (ii) whether the Secretary of the Interior should be given the exclusive authority to seize those properties by eminent domain and, if so, under what circumstances.

Endorsement of Senator Mitchell's bill

The Schooner Head residents, for whom I have been asked to speak today, join with me in commending Senator Mitchell for the wisdom and diligence he has brought to a long and often frustrating discussion. We unanimously endorse the bill he has proposed as an artful compromise: Schooner Head is to retain its integrity outside the park's boundaries but the Secretary of the Interior will gain the authority to condemn Schooner Head properties where irresponsible development schemes might be contemplated.

The Schooner Head property owners are not pleased with the loss in property value to be expected from any dilution in the usual rights of ownership, as will be the case if the Secretary of Interior accedes to a new police power over our properties. (This, incidentally, will constitute a taking of property value without consideration). We have invested in those properties both money and sentiment for as many as 3 generations.

Nonetheless, we respect the public's call to be unusually comprising and to be especially responsible as the stewards of a property of special importance to Maine and apparently to the nation itself. We look forward to the passage of Senator Mitchell's bill exactly as it is being presented today.

Opposition to expected requests for changes in the bill

We, the Schooner Head property owners, hope you will agree that Senator Mitchell's bill should be passed without change. We hope, too, that you will resist the predictable requests from those conservationists and environmental lobbyists who would doctor the bill once again and in yet another way at this 11th hour. We fully expect that conservationist lobby to persist in its attempt to thrust Schooner Head into an expanded park boundary, and to seek sweeping powers of condemnation. The owners of the Schooner Head properties would therefore offer these opposing views for your consideration:

(1) Schooner Head would be an expensive and relatively insignificant addition to Acadia National Park.

The Schooner Head properties contain only 35 acres versus the 35,000 acres that already comprise Acadia National Park. Those 35 acres would constitute an addition of no more than 1/10 of 1% of the park's existing land mass but it would cost the public approximately $5,500,000 to $7,000,000, or $150,000 to $200,000 per acre, to acquire those now almost completely developed properties and to then proceed to demolish the buildings, roads, and utilities already in place. (This calculation is based on an estimate of value reported by the Ellsworth American newspaper and Downeast magazine).

The primary problem with the National Park Service's desire to put Schooner Head at the top of its wish list is that the National Park Service simply failed to recognize the long-term potential of Schooner Head when the properties could have been purchased prudently. For example, the National Park Service should have acted on the opportunity to acquire the properties following the great fire of 1947 when the properties could have been bought for a pittance. The National Park Service repeated the error on numerous occasions, most recently in 1972 when the National Park Service failed to act on the opportunity to acquire by private sale 22 acres of Schooner Head's 35 acres; the same acreage was later sold in the open market as individual lots at almost twice the price offered to the National Park Service through the National Park Foundation.

Virtually every lot on Schooner Head is now fully developed or under construction. One could hardly imagine a less timely or more profligate investment than the one the National Park Service and the conservationist lobby would hope to make at Schooner Head if they can persuade you to alter Senator Mitchell's bill.

(2) Including Schooner Head within the Park boundaries with a view to ultimately condemning the homes there would be antithetical to the heritage of the Town of Bar Harbor and destructive to the Town's present and future cultural and financial welfare.

Schooner Head has been an important outlying neighborhood for Bar Harbor ever since the inception of the Town over 100 years ago. It has been populated ever since then, but for a period following the fire of 1947.

Today, several of Schooner Head's residents figure prominently in the life of the Town. (They include the administrator of Bar Harbor's largest employer, the Jackson Lab; a scientist and entrepreneur with a light manufacturing business in town; a noted musician who is also a sponsor of the celebrated Acadian Music Festival; a developer who has contributed to the restoration of some of the Town's historic buildings, etc.). Many of those same present residents, who happen to enjoy national recognition for their professions, have created at Schooner Head an artistic and scientific colony from which major cultural contributions flow back to the Town itself. Needless to say, the Schooner Head property owners also make major financial contributions to the Town in the way of property taxes.

The conservationists' peevish determination to eliminate the now year-round Schooner Head community insults the Park's host community with more panache than the Park's advocates have summoned so far during any aspect of this long debate. More importantly, their hoped-for use of eminent domain to accomplish that goal would not serve any manifestly important or financially justifiable public purpose and would therefore be a perversion of that police power.

(3) Broad powers of eminent domain, vested in the Interior Department for the purpose of expanding the National Parks, have proven to be an unwise public policy.

> Those who would advocate the alteration of Senator Mitchell's bill to provide the Department of Interior with extravagant powers of eminent domain have failed to acknowledge that the policy has not worked well in similar circumstances. The results have included the collapse of property values for private owners and allegations of strong-arm tactics by park representatives in the name of further expanding the 31,000,000-acre national park system. For example, the August 14, 1978 edition of Newsweek reported that the National Park Service, emboldened by a then substantial increase in federal funds, caused landowners in King's Canyon National Park in California "to complain of being offered unrealistically low prices, of annoying telephone calls from park officials, of late night visits from government land-acquisition officers . . . of forcing some owners to sell to the government. . .". National Park Service Director William Whalen later conceded that his staff may have been overzealous.
>
> The Schooner Head residents would acquiesce to the kind of eminent domain privilege set out in Senator Mitchell's bill for Schooner Head, but we would ask you to deny the Pandora's box of privileges sought by those who would revise Senator Mitchell's bill. The advantage to the Schooner Head property owners might be slight, but we do insist on at least that somewhat reassuring line of defense against conservationist zealots.

Conclusion

For these and other reasons, we, the owners and residents of Schooner Head, encourage you to enact Senator Mitchell's bill exactly as it has been presented. We encourage you to reject the anticipateable requests for changes in the bill which would provide for Schooner Head to be included in the permanent park boundaries, or for Schooner Head to be subjected to broader powers of eminent domain than are already provided for in Senator Mitchell's bill, or both. We feel strongly that such changes in Senator Mitchell's bill would add to an already long list of infringements on our rights as property owners, would disserve the best interests of the Town of Bar Harbor, and would legitimatize the prodigal use of federal funds for a poorly timed and unnecessary investiture of taxpayers' money in an era when those same taxpayers are demanding that government spend less money more wisely.

Please enact Senator Mitchell's bill, unchanged.

Senator WALLOP. Thank you, Mr. Dyer.

Senator Mitchell.

Senator MITCHELL. No questions, Mr. Chairman. I thank the witnesses for taking the trouble for coming down from Maine to appear at this hearing.

Senator WALLOP. And so do I, as chairman of the subcommittee. We've had interesting testimony. It appears to me that we will be wrenched around a good deal yet before it's all done, but we'll do the best we can to accommodate the various impressions of personal concern, ordinary rights of Americans, as well as the national interest and the interests of the island.

This being my first introduction to it, it being no strange news to Senator Mitchell, it is obvious from my experience on this committee that we do have a significant amount of work cut out for us. I've heard what you have said, and I think it's appropriate that you came down here from Maine to make your feelings known. To the extent that feelings and conflict can be accommodated we'll do the best we can to mesh all of these things that would appear to be in the interest of the National Park System and the country to find a reasonable boundary for this and to accommodate as much as we can those various public and private interests which find themselves in conflict.

With that, the hearing on this bill stands adjourned and we would remind you that the hearing record will remain open and we do welcome comments, adjustments to comments submitted, or new ideas that may develop. We thank you all.

I'm going to declare a 1-minute recess before going to S. 1208, and the same criteria will apply to those who wish to testify on it; the 5-minute rule will apply.

Thank you so much.

[A brief recess was taken.]

Senator WALLOP. The committee will return to order. I have a statement from the senior Senator from Maryland, Senator Mathias, and a statement of Senator Sarbanes which will be made a part of the record.

And I will insert into the record a memorandum of understanding by and between the National Capital Planning Commission and JTL Enterprises as part of the record.

[The prepared statements of Senator Mathias, and Senator Sarbanes, and the memorandum of understanding follows:]

TESTIMONY OF SENATOR CHARLES McC. MATHIAS, JR.

ON S. 1208

THE COMMITTEE ON ENERGY AND NATURAL RESOURCE'S SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

I am delighted to testify on behalf of legislation I introduced earlier this year that would authorize the transfer of a parcel of land in Prince George's County, Maryland from the Federal Government to the Maryland National Capital Park and Planning Commission (M-NCPPC). The commission is a State-created organization that manages parks in Montgomery and Prince George's Counties.

I had been asked to reintroduce this measure by both State and local officials from Maryland , including the M-NCPPC and the Prince George's County Executive and County council. Moreover, it also has the full support of the Maryland Department of Natural Resources and the National Capital Planning Commission. Representatives Steny Hoyer and Marjorie Holt have introduced similar legislation in the House of Representatives and I understand that Committee hearings are scheduled shortly.

The 55 acres transferred by this bill are adjacent to the Capital Beltway and the Potomac River in an area called Smoot Bay. The property was part of land acquired by the Federal Bureau of Roads from private owners in the late 50's for the construction of the Capital Beltway, the I-295 interchange and the approaches to the Woodrow Wilson Bridge. Ultimately, this particular parcel was found not to be needed for such purposes.

It has remained in the hands of the Federal government since then, as required by the 1956 act of Congress. But no use has been found for it. Until 1978,it was under the jurisdiction of the General Services Administration, the real estate agency for the federal government. Then it was transferred to the Department of the Interior with the condition that it be used for open space. The Department of the Interior, however, never has developed a plan for the property or programmed funds for developing it.

The Maryland National Capital Park and Planning Commission is anxious to put the land to constructive use. It wants to use it to develop a waterfront park for the public and to provide access to a proposed waterfront development.

The proposal for the development, a multi-million dollar project, includes a marina, a trade center, homes , retail shops, and boutiques. It will be an economic boon to Prince George's County and to the entire State of Maryland.

During the development of this bill, the National Capital Planning Commission (NCPC), the central planning agency for the Federal government in the National Capital region, and the National Park Service raised valid concerns about the impact the proposed development could have on the Potomac River and its shoreline.

The Federal government owns parkland north and the south of the area proposed for development and it has an interest in preserving open space along the Potomac River. It is concerned about the views of the proposed development from the Potomac River, from the Mount Vernon Memorial Highway on the opposite shore and from the lawn of Mount Vernon itself. Moreover, the National Capital Planning Commission has recognized the general area "as environmentally sensitive" because it includes, among other things, a flood plain, part of a coastal zone and a scenic waterfront.

I share these concerns and have made every effort to address them in the legislation. My original legislation included conditions that would safeguard the federal interests in the area relating to parkland, the Potomac River and its shoreline.

The NCPC, after reviewing the original bill, felt that the conditions initially set forth, while a good first step, did not go far enough in protecting the federal interests in the area .So, we went back to the drawing board to try to refine the legislation to meet the Commission's concerns. After painstaking negotiations over a six month period, the developer, in consultation with M-NCPPC and Congressional offices, crafted an agreement with the NCPC that included even tighter restrictions. This was not an easy task by anyone's standards and all who participated in it should be commended for a job well done. While giving the Commission assurances that the development will be compatible with federal interests,the agreement also maintains the developers' flexibility with regard to the viability and architectural integration of the project. The two parties will be spelling out the terms of the agreeement later at this hearing.

The original legislation gave the Department of the Interior the right to take back the property if any of the restrictions placed on the development was not met. Along with imposing additional restrictions on the developer,we felt that we could improve the legislation further by making the enforcement mechanism broader and stronger. The legislation before us today allows any party, including the Maryland National Capital Park and Planning Commission, the Prince George's County Executive, the National Capital Planning Commission,or any other aggrieved person,to file for an injunction in the appropriate U.S. District Court or in the Maryland State Court, if it feels that a violation of the restrictions has occurred.

The transfer of this land will increase the public's access to the Potomac River and its shoreline and generate waterfront activity. I urge the Committee to act on it as expeditiously as possible.

STATEMENT OF
SENATOR PAUL SARBANES
BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION
JULY 12, 1985

Mr. Chairman, I am pleased to be able to express my support today for legislation, S. 1208, to transfer certain federal surplus property in Prince George's County, Maryland to the Maryland National Capital Park and Planning Commission. Identical legislation has been introduced in the House.

The property to be transferred by this bill includes some 55 acres of land now owned by the Department of the Interior. The land is adjacent to the Capital Beltway where it crosses the Potomac River at the Woodrow Wilson Bridge. The Bureau of Roads originally acquired the designated property to facilitate the construction of the Beltway, I-295, and the approaches to the Wilson Bridge. After the construction of these projects was completed, the land was turned over to GSA and, subsequently, to the Department of the Interior.

It was envisioned that the property would be used for the planned extension of the George Washington Memorial Parkway down the Maryland side of the Potomac. Plans for the Parkway extension have, however, long since been discarded and no other use has been found for the property. In my view the time has come to make this land available for other uses as long as those other uses are compatible with the federal interest in preserving the character of the Potomac shoreline in the vicinity of the Nation's capital.

The Maryland National Capital Park and Planning Commission is a state-created agency charged with developing and maintaining parks and recreation activities in the Prince George's and Montgomery County areas. The MNCPPC has come forward with a proposal to develop the property as open space with park facilities on the river. The agency has also proposed allowing construction of a parkway through the property to provide access to the residential and commercial development now taking place in adjacent property along the Potomac.

There is no question that the creation of a waterfront park, complete with boat ramp and other facilities, would greatly facilitate enjoyment of the Potomac River by area residents and tourists. In this regard, the MNCPPC proposal represents an opportunity to turn a forgotten parcel of vacant property into a true public resource.

The transfer proposal also represents an opportunity to control to some extent the character of development downstream. I recognize the concerns raised by interested groups about the need to ensure that any commercial or residential development does not significantly disrupt either the sensitive environmental balance or the scenic beauty of the waterfront. The Prince George's County Council, in recognition of these concerns, attached conditions in adopting the zoning changes required for development. The legislation I am jointly sponsoring attempts to address the same concerns by laying out additional conditions for waterfront development on property adjacent to the land being transferred. The bill references a carefully worked out

Memorandum of Understanding with the National Capital Planning Commission that establishes specific criteria for suitable development downstream from the property. Should such criteria not be complied with, any party may bring suit, under this bill, to require compliance.

In summary, this legislation would put to good public use a piece of property unlikely to ever be utilized or improved by the federal government. In my view, the approach taken in this bill also represents a reasonable way to ensure adequate attention to the legitimate federal interests at stake in the adjacent development. Should this legislation not be enacted, I am convinced that the development would proceed regardless, although with some other means of access, and without any input from federal agencies regarding the design and environmental impact of the project. This legislation is strongly supported by the Prince George's County Executive and County Council and by various state agencies. It has been prepared with careful attention to and participation by the National Capital Planning Commission, the National Park Service and the Maryland National Capital Park and Planning Commission. The transfer of property as envisioned by the bill would serve both federal and local interests and I urge the subcommittee to approve this legislation.

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET N.W.
WASHINGTON, D.C. 20576

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE
NATIONAL CAPITAL PLANNING COMMISSION
AND
JTL ENTERPRISES, LTD.

PURPOSE

This Memorandum of Understanding is for the purpose of setting forth the agreement of the National Capital Planning Commission (hereinafter called the Commission) and JTL Enterprises, Ltd. (hereinafter called the Developer), regarding the imposition of restrictions on the development of the Smoot Bay Waterfront. The purpose and intent of these restrictions shall be to maintain the Developer's flexibility to preserve the financial viability and architectural integration of the project, and to provide the Commission with overall assurances that the land will be developed with regard for Federal interests in development along the shoreline of the Potomac River in the National Capital Region, including but not limited to public access to and along the Potomac River, views of Smoot Bay, as seen from the River, the Mount Vernon Memorial Highway and the Virginia shoreline, and the jurisdiction of the U.S. Army Corps of Engineers over any proposed construction in the River at this gateway location. It is also intended that the restrictions contained herein will be incorporated by reference in proposed Congressional legislation that both parties will support to authorize the Secretary of the Interior to convey to the Maryland-National Capital Park and Planning Commission for public waterfront park use a parcel of Federal park-land containing approximately 55 acres of land on the north side of Smoot Bay.

NOW THEREFORE, the parties agree as follows:

DEFINITIONS

The following words shall have the following meanings in this Memorandum:

Area of Land to Which Memorandum of Understanding Applies: This agreement applies to land owned by the developer, including a portion of the Gudelsky Tract, which is currently zoned M-X-T located along and under Smoot Bay; it does not apply to the land also owned by developer located along Route 95 to the east of the subject waterfront property.

Building Height: The maximum height of a building inclusive of vertical access cores, mechanical areas and structures, and other non-occupied penthouses located on building rooftops, but excluding architectural ornamentation such as balustrades, spires, etc. All building heights shall be measured at the lowest point on the adjacent ground.

Commission: The National Capital Planning Commission.

Developer: JTL Enterprises, Ltd., its successors and assigns.

Existing Shoreline: The location of the mean low water mark on the Smoot Bay shoreline as it exists as of the date of this Memorandum.

Fill Area: The area between the existing and the new shoreline to be created by the developer.

Green Area: An area of land associated with, and located on the same tract of land as, a major building or group of buildings, in relation to which it serves to provide light and air or scenic, recreational, or similar purposes. Such space shall, in general, be available for entry and use by the occupants of the building or buildings involved but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants of those in neighboring areas, or a general appearance of openness. Green area may include, but shall not be limited to, lawns, decorative plantings, wooded areas, landscaping areas covering structures that are not more than twelve (12) feet above ground level, sidewalks and walkways, active and passive recreational areas, and water surfaces that comprise not more than ten percent (10%) of the total green area. It shall not include parking lots or other vehicular surfaces or accessory buildings other than swimming pools or recreational buildings allowed by special exception as provided for in the Prince George's County Code, Subtitle 27. Zoning.

Riparian Development: Structures projecting beyond the new stabilized shoreline including but not limited to boat docks, piers and slips.

RESTRICTIONS

1. Preservation of Green Area Along Shoreline. The developer shall devote to green area at least 35% of an area to be defined as the portion of the property lying adjacent to and extending inland from the entire new shoreline of the property to a depth of 150 feet. The green area shall abut portions of the entire new shoreline totalling at least 2,500 linear feet. Green areas within 150 feet of the new shoreline shall not contain any buildings or structures but shall include a hiker-biker trail. The approximately 3 acre "Rosalie Island" site shall not be considered green area.

2. Other Green Areas. The developer shall devote at least 35% of the area of the Smoot Bay Waterfront parcels to green area.

3. Park Area on the Waterfront. The portion of the Developer's property, adjacent to the National Park Service property, adjoining the Woodrow Wilson Bridge and generally known as "Rosalie Island", shall be devoted to active or passive public recreational uses including, but not limited to, beaches and swimming facilities. This area shall, if requested by the Maryland-National Capital Park and Planning Commission (M-NCPPC), be dedicated to the M-NCPPC as a public park.

4. Hiker-Biker Trail. The Developer will dedicate or grant easements for hiker-biker trails, to be located essentially along the new shoreline, that will permit future connections with proposed trails, including the Potomac Heritage Trail, along the Potomac River north and south of Smoot Bay.

5. Filling in the Bay. Subject to the requirements of the U.S. Army Corps of Engineers, the developer may fill out beyond the existing shoreline to a maximum of 200 feet. However, fill north of the Gudelsky Tract may extend up to a maximum of 750 feet beyond the existing shoreline as measured perpendicularly from the existing shoreline. Such fill on the developer's property north of the Gudelsky Tract may not exceed 25 acres. The fill shall be part of the stab[illegible]ation of the shoreline by the Developer. No filling shall be permitted in the Potomac River south of Rosier Point. It is recognized by the parties that neither the riverfront plan or the complete topographical maps of the property have been finalized as of this date and there may be extraordinary indentations in the shoreline which would disproportionately affect the desired continuous curve of the new shoreline. In such cases reasonable tolerance is to be allowed beyond the two hundred

foot limit; provided, however, that there is a limit of an additional 30 feet for such tolerance unless the Commission specifically agrees to allow further extensions.

The Developer shall provide for restoration or replacement for wetlands that are subject to the ebb and flow of the tide that may be adversely impacted by filling in the Bay. The developer will restore or replace as may be necessary said wetlands. All filling in the Bay will be done in accordance with the "Guidelines for Specification of Disposal Sites for Dredged or Fill Material under Section 404(b)(1) of the Clean Water Act contained in 40 CFR Part 230.

6. Marina Development. Subject to the requirements of the U.S. Army Corps of Engineers, a marina may be developed on the Bay north of the Gudelsky Tract. However, boat docks, piers and slips may not project more than 1,300 feet beyond the existing shoreline on the east side of the Bay nor more than 900 feet south of the developer's north property line (which is the southern boundary of the existing Federal parkland on the north side of the Bay).

Permitted uses within the Marina shall be of a marina-related character and architecturally integrated with the surrounding commercial and residential development. No uses within the Marina shall be permitted which would have an adverse effect on the Bay or adjacent development or which would constitute a detriment to the health, safety, or comfort of workers or residents in the area, due to but not limited to such factors as noise, smoke, odors, vibration, or dust. No buildings or structures shall be built over the boat docks, piers or slips in the Marina.

7. Other Riparian Development. Other than the Marina, no other riparian development beyond the new shoreline shall be permitted except that no more than three double-loaded piers up to 60 feet wide each (including the boat slips) extending up to a maximum of 150 feet out from the new bulkhead may be built in each of the following locations:

a. Within the first 500 feet south of the proposed harbor and so as not to obstruct the view from the water of the northernmost waterfront park.

b. Within the first 800 feet east of the tip of Rosier Point.

8. Building Heights: In general, there shall be a maximum height limit of 65 feet. There are two exceptions:

a. one tower building may be built up to a height of 150 feet on land north of the Gudelsky Tract.

b. Buildings up to 96 feet in height may be built either on the zoned portion of the Gudelsky Tract currently zoned M-X-T or to the north of that tract south of the existing Federal parkland.

9. Shoreline Stabilization. The Developer shall retain the right to bulkhead the entire shoreline, as may be necessary according to sound engineering practice, to stabilize the shoreline. The Developer will maintain or provide where practicable trees, shrubs and other landscaping along the entire shoreline.

10. Parking. Parking areas or compounds shall to the extent practicable be designed so as not to be seen from the water. This will be accomplished through the use of landscaping, screening and similar means.

11. Views. The design of the entire waterfront development shall, to the extent possible, preserve and architecturally enhance views from the Potomac River and the Virginia shoreline.

12. Wetlands. Building activities in wetlands shall utilize the best practices available to minimize adverse impacts and shall follow applicable U.S. Army Corps of Engineers and State of Maryland permitting procedures and regulations.

13. Protection of the Flood Plain. Any construction in the flood plain shall utilize the best practices available to minimize adverse impacts and shall follow applicable State of Maryland and Prince George's County permitting procedures and regulations.

14. Landscaping

The Developer agrees to landscape all proposed development in order to restore as much of the tree covered character of the shoreline and the hillside as practicable.

15. Termination

The Commission and the Developer will cooperate fully toward passage of the bill as quickly as possible. In the event that Congress does not pass the bill to transfer the National Park Service property within 60 legislative days (or longer as mutually agreed to by letter) then this agreement shall be null and void.

16. Amendments

This agreement may be modified at any time by the mutual agreement of NCPC and James T. Lewis Capital Enterprises, Ltd. regarding aspects of the development which serve to carry out the general intent of this agreement and which would improve the attractiveness of the development.

WHEREFORE, we have set our hands and seals this ____ day of ___, 1985.

JTL, Inc.

By________________________________

James T. Lewis, President

National Capital Planning Commission

By________________________________

Robert J. Nash, Vice Chairman

Senator **Wallop**. The first witness is the Regional Director, Manus Fish, National Capital Region, and Vice Chairman Robert J. Nash of that Commission, who is accompanied by Katherine Soffer and Donald Bozarth.

Mr. Fish.

STATEMENT OF MANUS J. FISH, REGIONAL DIRECTOR, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY JOHN PARSONS, ASSOCIATE REGIONAL DIRECTOR, NATIONAL PARK SERVICE

Mr. **Fish**. Mr. Chairman, how are you? I would like to introduce my associate here, John Parsons, the Associate Regional Director for the National Capital Region.

Mr. Chairman, it is a pleasure to be here today to discuss S. 1208, a bill to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission.

We recommend that action on S. 1208 be deferred until the administration has an opportunity to complete its review of the legislation. We do, however, want to work with all parties involved to ensure sensitive development that meets all the parties' needs and concerns.

The Maryland-National Park and Planning Commission would be authorized to use the land so conveyed for park and waterfront recreation purposes and would be authorized to grant access across the real property conveyed to the owner of real property adjacent to such real property.

The act of May 29, 1930, as amended, known as the Capper-Cramton Act, provides for the acquisition, establishment and development of the George Washington Memorial Parkway along the Potomac River from Mount Vernon in Virginia and from Fort Washington in Maryland to Great Falls. The Capper-Cramton Act specifically calls for the National Capital Planning Commission to be a party to the selection of lands to be acquired. The major thrust of the act and the intent of the parkway authorization was to protect the shorelines of the Potomac River from adverse development.

The National Capital Planning Commission, of which the Secretary of the Interior is a member, is charged with protecting the Federal interest along the Potomac River shoreline in the National Capital Region, and we believe that the transfer of these lands under the conditions outlined in the Commission's memorandum of understanding, as referred to in S. 1208, will protect the Federal interest.

These interests relate to the Federal parklands adjoining the site on both the north and the south and the longstanding Federal interest and concerns about development along the shoreline of the Potomac River in the National Capital Region. These interests also include public access to the Potomac River shoreline, and views of Smoot Bay as seen from the river, the Mount Vernon Memorial Highway, and the Virginia shoreline.

The Commission has discussed this issue at length and feels that the purposes for which it approved our acquisition of this land will be served by the memorandum of understanding. We defer to the Commission in this regard. However, we need to analyze whether or not an equal value exchange or other payment for the lands to be conveyed is appropriate, given the memorandum of understanding.

We are also concerned that the provisions of the memo referred to in the legislation may not be binding on the developer or its successors in title once the conveyance and grant of access are completed. We recommend that the legislation be amended by adding a section which provides that before any access is granted pursuant to this legislation the restrictions on development contained in the memorandum of understanding be incorporated into a deed of easement to run with the land so as to be binding upon the developer, its successors and assigns.

We also recommend that any other land use restrictions imposed by the Prince Georges County Council be incorporated into a deed so as to preserve in perpetuity the public open spaces promised by the developer in the agreement and the land use and development planning process.

Further, prior to granting access across the land that would be conveyed, we recommend that an escrow account be established to ensure the terms and conditions of the easement are met and that the construction of access across public recreation open space be done in a sensitive manner.

If the Maryland-National Capital Park and Planning Commission should find affirmatively that the terms and conditions of the deed of easement have not been met or that any of the remaining public recreation open space has been damaged, then the Commission shall have access to the escrow account. If no finding is made, then the escrow account shall be returned to the developer.

We are also concerned about the impact of the provisions of subsection (d) of S. 1208. That subsection provides that the National Capital Planning Commission, the Maryland-National Capital Park and Planning Commission, the Prince Georges County Executive, or any other aggrieved person may bring any action in either United States District or Maryland State courts to enforce compliance with the memorandum of understanding.

We do not believe that a special standing and/or jurisdictional provision is necessary for the accomplishment of these purposes, and we recommend that it be deleted. We believe that subsection (d) would be particularly inappropriate if our previously-discussed amendment were incorporated in S. 1208.

We also recommend that a provision be added to the bill requiring that any expense incurred by the Federal Government in the conveyance of property authorized be paid by the Maryland-National Capital Park and Planning Commission.

Finally, we recommend that paragraph (a)(1) be amended to ensure that the land will be used solely for park and waterfront public recreation purposes, open space, and the right of access, as provided in the memo. Paragraph (a)(1) should be clarified to convey only "sufficient title" rather than all right and title, in order to carry out the purposes of the legislation.

Mr. Chairman, we will report back to you with the administration's position on the issue of fair compensation to the Government for the land conveyance as soon as our analysis is complete.

And I'd be pleased to try to answer any questions.

[The prepared statement of Mr. Fish follows:]

STATEMENT OF MANUS J. FISH, REGIONAL DIRECTOR, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ON S. 1208, A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND LOCATED IN THE STATE OF MARYLAND TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

JULY 12, 1985

MR. CHAIRMAN, IT IS A PLEASURE TO BE HERE TODAY TO DISCUSS S. 1208, A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND LOCATED IN THE STATE OF MARYLAND TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

WE RECOMMEND THAT ACTION ON S. 1208 BE DEFERRED UNTIL THE ADMINISTRATION HAS AN OPPORTUNITY TO COMPLETE ITS REVIEW OF THE LEGISLATION.

WE CONTINUE TO HAVE CONCERNS ABOUT THE POTENTIAL EXCESSIVE HEIGHTS OF HIGHRISE BUILDINGS ALONG THE POTOMAC RIVER, POTENTIAL EXCESSIVE FILLING OF THE SPRING-FED SCENIC COVE IN THE POTOMAC RIVER AND ITS IMPACT ON THE RECENTLY IMPROVING WATER QUALITY, THE PROTECTION OF THE SCENIC ENTRANCE TO THE STATE OF MARYLAND AS WELL AS THE CAPITAL CITY OF THE DISTRICT OF COLUMBIA, AND THE VIEWSHED FROM THE RIVER AND THE GEORGE WASHINGTON MEMORIAL PARKWAY. HOWEVER, RATHER THAN VIEWING THESE CONCERNS AS IMPEDIMENTS, WE VIEW THEM AS OPPORTUNITIES TO WORK WITH ALL PARTIES INVOLVED TO ENSURE SENSITIVE DEVELOPMENT THAT MEETS ALL THE PARTIES' NEEDS AND CONCERNS.

S. 1208 WOULD AUTHORIZE THE SECRETARY TO CONVEY LAND IN THE VICINITY OF THE WASHINGTON BELTWAY NEAR I-95 AND I-295 AT THE WOODROW WILSON BRIDGE TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION WITHOUT COST. THE COMMISSION WOULD BE AUTHORIZED TO USE THE LAND SO CONVEYED FOR PARK AND WATERFRONT RECREATION PURPOSES, AND WOULD BE AUTHORIZED TO GRANT ACCESS ACROSS THE REAL PROPERTY CONVEYED TO THE OWNER OF REAL PROPERTY ADJACENT TO SUCH REAL PROPERTY. THE OWNER OF THE ADJACENT REAL PROPERTY TO WHOM ACCESS COULD BE GRANTED IS A DEVELOPER SEEKING TO DEVELOP PROPERTY KNOWN AS "SMOOT BAY". A SIZABLE, PRIVATE MIXED-USE DEVELOPMENT IS PLANNED FOR THAT PROPERTY, AND THE ACCESS ALLOWED UNDER S. 1208 WOULD BE NECESSARY FOR THE PROPOSED DEVELOPMENT TO PROCEED.

THE LEGISLATION PROVIDES THAT ANY ACCESS WHICH IS GRANTED MUST BE CONTINGENT UPON:

(1) SUBMISSION TO THE NATIONAL CAPITAL PLANNING COMMISSION OF A LAND USE AND DEVELOPMENT PLAN INCORPORATING PROVISIONS OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE DEVELOPER AND THE COMMISSION SIGNED MAY 7, 1985;

(2) APPROVAL OF THE LAND USE AND DEVELOPMENT PLAN BY PRINCE GEORGE'S COUNTY, MARYLAND, COUNCIL; AND

(3) COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE ABOVE-REFERENCED MEMORANDUM OF UNDERSTANDING.

ALSO, THE LEGISLATION PROVIDES THAT THE INSTRUMENT OF CONVEYANCE OF THE LANDS MUST SET FORTH "ALL TERMS AND CONDITIONS ON THE CONVEYANCE AND THE GRANT OF ACCESS" AUTHORIZED THEREIN.

THE ACT OF MAY 29, 1930 (46 STAT. 1482), AS AMENDED, KNOWN AS THE "CAPPER-CRAMTON ACT", PROVIDES FOR THE ACQUISITION, ESTABLISHMENT, AND DEVELOPMENT OF THE GEORGE WASHINGTON MEMORIAL PARKWAY ALONG THE POTOMAC RIVER FROM MOUNT VERNON (IN VIRGINIA) AND FROM FORT WASHINGTON (IN MARYLAND) TO GREAT FALLS. THE CAPPER-CRAMTON ACT SPECIFICALLY CALLS FOR THE NATIONAL CAPITAL PLANNING COMMISSION TO BE A PARTY TO THE SELECTION OF LANDS TO BE ACQUIRED. A MAJOR THRUST OF THE ACT, AND THE INTENT OF THE PARKWAY AUTHORIZATION, WAS TO PROTECT THE SHORELINES OF THE POTOMAC RIVER FROM ADVERSE DEVELOPMENT.

THE NATIONAL PARK SERVICE ACQUIRED THE LANDS ADDRESSED BY THIS BILL AS A RESULT OF THE ACT AUTHORIZING THE CONSTRUCTION OF THE WOODROW WILSON MEMORIAL BRIDGE,BECAUSE THE FEDERAL HIGHWAY ADMINISTRATION, WHICH HAD PURCHASED THESE LANDS AND FOUND THEY WERE NOT NEEDED FOR HIGHWAY PURPOSES, TRANSFERRED THEM TO THE NATIONAL PARK SERVICE IN 1978. THIS TRANSFER WAS APPROVED BY THE NATIONAL CAPITAL PLANNING COMMISSION. THESE LANDS WERE TO BE MANAGED AS A PART OF THE OPEN SPACE PARK SYSTEM THAT THE NATIONAL PARK SERVICE MANAGES ALONG THE POTOMAC RIVER SHORELINE, AND THE LANDS WERE FORMALLY ACCEPTED BY THE NATIONAL PARK SERVICE.

THE NATIONAL CAPITAL PLANNING COMMISSION IS CHARGED WITH PROTECTING THE FEDERAL INTERESTS ALONG THE POTOMAC RIVER SHORELINE IN THE NATIONAL CAPITAL REGION, AND WE BELIEVE THAT THE TRANSFER OF THESE LANDS UNDER THE CONDITIONS OUTLINED IN THE COMMISSION'S MEMORANDUM OF UNDERSTANDING, AS REFERRED TO IN S. 1208, WILL PROTECT THE FEDERAL INTERESTS. THESE INTERESTS RELATE TO THE FEDERAL PARKLANDS ADJOINING THE SITE ON BOTH THE NORTH AND THE SOUTH AND THE LONGSTANDING FEDERAL INTEREST AND CONCERNS ABOUT DEVELOPMENT ALONG THE SHORELINE OF THE POTOMAC RIVER IN THE NATIONAL CAPITAL REGION. THESE INTERESTS ALSO INCLUDE PUBLIC ACCESS TO THE POTOMAC RIVER SHORELINE, AND VIEWS OF SMOOT BAY AS SEEN FROM THE RIVER, THE MOUNT VERNON MEMORIAL HIGHWAY, AND THE VIRGINIA SHORELINE. THE COMMISSION HAS STUDIED THIS ISSUE AT LENGTH AND FEELS THAT THE PURPOSES FOR WHICH IT APPROVED OUR ACQUISITION OF THESE LANDS WILL BE SERVED BY THE MEMORANDUM OF UNDERSTANDING. WE DEFER TO THE COMMISSION IN THIS REGARD. HOWEVER, WE NEED TO ANALYZE WHETHER OR NOT AN EQUAL VALUE EXCHANGE OR OTHER PAYMENT FOR THE LANDS TO BE CONVEYED IS APPROPRIATE, GIVEN THE MEMORANDUM OF UNDERSTANDING.

WE ARE CONCERNED, HOWEVER, THAT THE PROVISIONS OF THE MEMORANDUM OF UNDERSTANDING REFERRED TO IN THE LEGISLATION MAY NOT BE BINDING ON THE DEVELOPER OR ITS SUCCESSORS IN TITLE ONCE THE CONVEYANCE AND GRANT OF ACCESS ARE COMPLETED. WE RECOMMEND THAT THE LEGISLATION BE AMENDED BY ADDING A SECTION WHICH PROVIDES THAT, BEFORE ANY ACCESS IS GRANTED PURSUANT TO THIS LEGISLATION, THE RESTRICTIONS ON DEVELOPMENT CONTAINED IN THE MEMORANDUM OF UNDERSTANDING BE INCORPORATED INTO A DEED OF EASEMENT TO RUN WITH THE LAND, SO AS TO BE BINDING UPON THE DEVELOPER, ITS SUCCESSORS, AND ASSIGNS. WE ALSO RECOMMEND THAT ANY OTHER LAND USE RESTRICTIONS IMPOSED BY THE PRINCE GEORGES COUNTY COUNCIL BE INCORPORATED INTO A DEED SO AS TO PRESERVE IN PERPETUITY THE PUBLIC OPEN SPACES PROMISED BY THE DEVELOPER IN THE AGREEMENT AND THE LAND USE AND DEVELOPMENT PLANNING PROCESS. FURTHER, PRIOR TO GRANTING ACCESS ACROSS THE LAND THAT WOULD BE CONVEYED, WE RECOMMEND THAT AN ESCROW ACCOUNT EQUAL TO 50 PERCENT OF THE FAIR MARKET VALUE, UNENCUMBERED, OF THE LANDS PROPOSED FOR TRANSFER WOULD BE ESTABLISHED IN AN ESCROW ACCOUNT TO ENSURE THAT:

(A) THE TERMS AND CONDITIONS OF THE EASEMENT ARE MET; AND

(B) THAT THE CONSTRUCTION OF ACCESS ACROSS PUBLIC RECREATION OPEN SPACE WILL BE DONE IN A SENSITIVE MANNER.

IF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION SHOULD FIND AFFIRMATIVELY THAT THE TERMS AND CONDITIONS OF THE DEED OF EASEMENT HAVE NOT BEEN MET OR THAT ANY OF THE REMAINING PUBLIC RECREATION OPEN SPACE HAS BEEN DAMAGED, THEN THE COMMISSION SHALL HAVE ACCESS TO THE ESCROW ACCOUNT AS A RESULT OF NON-PERFORMANCE WITH THE TERMS AND CONDITIONS OF THE EASEMENT AND/OR FOR THE PURPOSE OF REHABILITATING AND RESTORING THE RESOURCES OF THE LANDS SO TRANSFERRED TO THEIR ORIGINAL CONDITION. IF NO FINDING IS MADE, THEN THE ESCROW ACCOUNT SHALL BE RETURNED TO THE DEVELOPER WHEN THE ENTIRE PROPOSED PROJECT HAS BEEN SUBSTANTIALLY COMPLETED.

WE ARE ALSO CONCERNED ABOUT THE IMPACT OF THE PROVISIONS OF SUBSECTION (d) OF S. 1208. THAT SUBSECTION PROVIDES THAT THE NATIONAL CAPITAL PLANNING COMMISSION, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, THE PRINCE GEORGES COUNTY EXECUTIVE, "OR ANY OTHER AGGRIEVED PERSON" MAY BRING ANY ACTION IN EITHER UNITED STATES DISTRICT OR MARYLAND STATE COURTS TO ENFORCE COMPLIANCE WITH THE MEMORANDUM OF UNDERSTANDING. WE DO NOT BELIEVE THAT A SPECIAL STANDING AND/OR JURISDICTIONAL PROVISION IS NECESSARY FOR THE ACCOMPLISHMENT OF THESE PURPOSES, AND WE RECOMMEND THAT IT BE DELETED. WE BELIEVE THAT SUBSECTION (d) WOULD BE PARTICULARLY INAPPROPRIATE IF OUR PREVIOUSLY DISCUSSED AMENDMENT WERE INCORPORATED INTO S. 1208. REGULAR STANDING OR JURISDICTIONAL STATUTES WOULD ALLOW ENFORCEMENT OF ANY VIOLATIONS OF EASEMENTS WHICH WOULD BE CREATED AS A PART OF THE GRANT OF ACCESS AUTHORIZED IN THIS LEGISLATION.

WE ALSO RECOMMEND THAT A PROVISION BE ADDED TO S. 1208 REQUIRING THAT ANY EXPENSE INCURRED BY THE FEDERAL GOVERNMENT IN THE CONVEYANCE OF PROPERTY AUTHORIZED IN SUBSECTION (a) BE PAID BY THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

FINALLY, WE RECOMMEND THAT PARAGRAPH (a)(1) OF S. 1208 BE AMENDED TO ENSURE THAT THE LAND WILL BE USED SOLELY FOR PARK AND WATERFRONT PUBLIC RECREATIONAL PURPOSES, OPEN SPACE, AND THE RIGHT OF ACCESS, AS PROVIDED IN THE MEMORANDUM OF UNDERSTANDING. PARAGRAPH (a)(1) SHOULD BE CLARIFIED TO CONVEY ONLY "SUFFICIENT TITLE" RATHER THAN ALL RIGHT AND TITLE, IN ORDER TO CARRY OUT THE PURPOSES OF THE LEGISLATION.

WE WILL REPORT BACK TO YOU WITH THE ADMINISTRATION'S POSITION ON THE ISSUE OF FAIR COMPENSATION TO THE GOVERNMENT FOR THE LAND CONVEYANCE AS SOON AS OUR ANALYSIS IS COMPLETE.

THIS CONCLUDES MY PREPARED REMARKS, MR. CHAIRMAN. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU OR OTHER MEMBERS OF THE COMMITTEE MAY HAVE.

Senator WALLOP. Jack, thank you. Do you have any idea when that would be?

Mr. FISH. Well, we don't see it as a fair market appraisal, Mr. Chairman, so we think that perhaps within a few weeks we could be back with that information.

Senator WALLOP. Surely by the time the Congress returned after Labor Day?

Mr. FISH. Oh, very definitely, yes, sir.

Senator WALLOP. Within a few weeks. That's already going to put us past the time we're sitting, but surely by that time, and we could expect it on our return from Labor Day?

Mr. FISH. We will try to expedite it, Mr. Chairman.

Senator WALLOP. I have a note, which impresses me and I hope impresses everybody here, that your troops are responsible for the majority of the floral displays that line the flower beds around the city, and I, for one, take great delight in them, I really do.

I've got to tell you that whichever way I drive in I feel a real sense of pride in the way you make this city look.

Mr. FISH. Well, we're very pleased to hear that. There are many of our gardeners and people who work in the parks that will be delighted to hear that.

I might just mention, Mr. Chairman, since it just came yesterday——

Senator WALLOP. I'd also might tell you how durable I find them. After the Fourth of July celebrations, they're still beautiful. [Laughter.]

Mr. FISH. They do get covered up. Mrs. Johnson, Lady Bird Johnson, just sent me a note and she still continues to get many letters from people all over the country. When they come to Washington and visit and they see the flowers they write a letter to her and compliment her for her Beautification Program, and then she very graciously sends them on to the Park Service. So we're delighted with those comments.

Senator WALLOP. Well, they are splendid and they're a great delight where they are, and they are extraordinarily prevalent throughout this area.

Mr. FISH. Thank you.

Senator WALLOP. So thank you.

The next is Vice Chairman Robert Nash of the National Capital Planning Commission, accompanied by Katherine Soffer and Donald Bozarth.

Mr. BOZARTH. Mr. Chairman, my name is Donald Bozarth. Mr. Nash and Ms. Soffer are not in the room at the moment. Would you prefer that I read his testimony at this time?

Senator WALLOP. You can proceed as you like.

Mr. BOZARTH. Or would you prefer to pass on and come back to him when he's here to give his statement?

Senator WALLOP. Pass on and come back, I guess.

Mr. BOZARTH. I think he would prefer to do that. He will have the general counsel with him at that time, if possible.

Senator WALLOP. OK.

Mr. BOZARTH. Thank you.

Senator Wallop. We will go, then, to the first panel: Mr. John Rhoads, chairman, Prince Georges Planning Board; Don Spicer, assistant chief administrative Officer of Prince Georges County.

Mr. Rhoads.

STATEMENT OF JOHN W. RHOADS, CHAIRMAN, MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Mr. Rhoads. Mr. Chairman, thank you for providing an opportunity to address you regarding Senate bill 1208.

Since its inception in 1927, the Maryland-National Capital Park and Planning Commission has had as one of its primary missions the acquisition and development of public parkland in Prince Georges and Montgomery Counties. The commission is proud of its record in this regard and believes that it has one of the finest systems of parks at the local level in this country.

The commission has been recognized nationally by being awarded the National Gold Medal, an award for excellence in park administration. It's the only agency or local agency in the United States to receive this recognition that many times.

Prince Georges County, under the leadership of the county executive and council, has made great strides in the development of public parks and recreation programs for its citizens. A number of noteworthy park developments exist in the county, to include the historic College Park Airport, the Prince Georges Equestrian Center, and several historic mansions in parks, including Oxon Hill Manor, former home of Sumner Wells, Under Secretary of State in the Roosevelt administration.

The manor house has a sweeping view of the Potomac River, but does not have direct access to it. For many years, the Commission has been anxious to acquire land on the Potomac to provide access to the river so that the public may pursue active recreational activities on the water.

The Commission is also the planning agency for Prince Georges and Montgomery Counties and as such is anxious to see quality development projects take place in our environs. As such, we have been following the proposal for the development of the Smoot Bay area with great interest. We are convinced that this development is one that holds great promise for Prince Georges County, if properly planned and implemented.

The bill that is before you will, if approved, give the metropolitan area a magnificent 55-acre park site, one which will not only provide a link from the Oxon Hill Manor to the Potomac, but also will afford the Commission the opportunity to develop long-awaited recreational activities on the water. The State of Maryland already has made a commitment to provide more than $700,000 to assist in that development if the Congress approves the proposed land transfer.

Since there is no Federal development there now and none is planned, this presents the Commission with an unparalleled chance to use State and local funds for this purpose.

Second, if this bill is approved the Commission will be in a position to provide the private developer with access through its parklands to the waterfront development, a development which, as Senator Mathias has said, will be an economic boom to Prince Georges and the entire State of Maryland.

I urge your favorable consideration of this bill. If the bill is approved by the Congress, you may be sure that the Maryland-National Capital Park and Planning Commission, in its planning role, will do everything in its power to help ensure that the private development is of the highest quality, aesthetically pleasing, and of great credit to the entire region. I will guarantee you that the Commission, in its park role, will develop a public park that will be truly outstanding.

We do have a preliminary drawing of what we propose, if you would like to see it, and I and my staff will be happy to answer any additional questions. Thank you very much for the opportunity to be here this morning.

Senator WALLOP. Is this the drawing?

Mr. RHOADS. That is correct.

Senator WALLOP. And the recreation park is on my left?

VOICE. That is correct.

Senator WALLOP. As well as the marina, it looks like. Is that a marina?

VOICE. Mr. Chairman, this is the land in question, Woodrow Wilson Bridge, and the parkland that would be developed would be here on this portion of the peninsula, as well as the boat slips and a small public marina with a fishing shack and parking area, a place that people could rent boats, purchase fishing bait, and so forth.

[The prepared statement of Mr. Rhoads follows:]

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland, 20870

STATEMENT OF
JOHN W. RHOADS
CHAIRMAN OF THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
BEFORE
THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
AND RESOURCE CONSERVATION
OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
JULY 12, 1985

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THANK YOU FOR PROVIDING ME AN OPPORTUNITY TO ADDRESS YOU REGARDING SENATE BILL 1208.

SINCE ITS INCEPTION IN 1927, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION HAS HAD, AS ONE OF ITS PRIMARY MISSIONS, THE ACQUISITION AND DEVELOPMENT OF PUBLIC PARKLAND IN PRINCE GEORGE'S AND MONTGOMERY COUNTIES. THE COMMISSION IS PROUD OF ITS RECORD IN THIS REGARD, BELIEVING THAT IT HAS ONE OF THE FINEST SYSTEMS OF PARKS AT THE LOCAL LEVEL IN THIS COUNTRY. PRINCE GEORGE'S COUNTY, UNDER THE LEADERSHIP OF THE COUNTY EXECUTIVE AND COUNCIL, HAS MADE GREAT STRIDES IN THE DEVELOPMENT OF PUBLIC PARKS AND RECREATION PROGRAMS FOR ITS CITIZENS. A NUMBER OF NOTEWORTHY PARK DEVELOPMENTS EXIST IN THE COUNTY TO INCLUDE THE HISTORIC COLLEGE PARK AIRPORT, THE PRINCE GEORGE'S EQUESTRIAN CENTER,AND SEVERAL HISTORIC MANSIONS IN PARKS, INCLUDING THE OXON HILL MANOR,FORMER HOME OF SUMNER WELLS,UNDER-SECRETARY OF STATE IN THE ROOSEVELT ADMINISTRATION. THE MANOR HOUSE HAS A SWEEPING VIEW OF THE POTOMAC RIVER, BUT DOES NOT HAVE DIRECT ACCESS TO IT. FOR MANY YEARS, THE COMMISSION HAS BEEN ANXIOUS TO ACQUIRE LAND ON THE POTOMAC TO PROVIDE ACCESS TO THE RIVER SO THAT THE PUBLIC MAY PURSUE ACTIVE RECREATIONAL ACTIVITIES ON THE WATER.

THE COMMISSION IS ALSO THE PLANNING AGENCY FOR PRINCE GEORGE'S AND MONTGOMERY COUNTIES AND, AS SUCH, IS ANXIOUS TO SEE QUALITY DEVELOPMENT PROJECTS TAKE PLACE IN OUR ENVIRONS. AS SUCH, WE HAVE BEEN FOLLOWING THE PROPOSAL FOR THE DEVELOPMENT OF THE SMOOT BAY AREA WITH GREAT INTEREST. WE ARE CONVINCED THAT THIS DEVELOPMENT IS ONE THAT HOLDS GREAT PROMISE FOR PRINCE GEORGE'S IF PROPERLY PLANNED AND IMPLEMENTED.

THE BILL THAT IS BEFORE YOU WILL, IF APPROVED, GIVE THE METROPOLITAN AREA A MAGNIFICENT 55-ACRE PARK SITE, ONE WHICH WILL NOT ONLY PROVIDE A LINK FROM THE OXON HILL MANOR TO THE POTOMAC, BUT ALSO WILL AFFORD THE COMMISSION THE OPPORTUNITY TO DEVELOP LONG AWAITED RECREATIONAL ACTIVITIES ON THE WATER. THE STATE OF MARYLAND ALREADY HAS MADE A COMMITMENT TO PROVIDE MORE THAN $700,000 TO ASSIST IN THAT DEVELOPMENT IF THE CONGRESS APPROVES THE PROPOSED LAND TRANSFER. SINCE THERE IS NO FEDERAL DEVELOPMENT THERE NOW AND NONE PLANNED, THIS PRESENTS THE COMMISSION WITH AN UNPARALLED CHANCE TO USE STATE AND LOCAL FUNDS FOR THIS PURPOSE.

SECONDLY, IF THIS BILL IS APPROVED, THE COMMISSION WILL BE IN A POSITION TO PROVIDE THE PRIVATE DEVELOPER WITH ACCESS THROUGH ITS PARKLAND TO THE WATERFRONT DEVELOPMENT, A DEVELOPMENT WHICH, AS SENATOR MATHIAS HAS SAID, WILL BE AN ECONOMIC BOOM TO PRINCE GEORGE'S AND THE ENTIRE STATE OF MARYLAND.

I URGE YOUR FAVORABLE CONSIDERATION OF THIS BILL. IF THE BILL IS APPROVED BY THE CONGRESS, YOU MAY BE SURE THAT THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, IN ITS PLANNING ROLE, WILL DO EVERYTHING IN ITS POWER TO HELP INSURE THAT THE PRIVATE DEVELOPMENT IS OF THE HIGHEST QUALITY, AESTHETICALLY PLEASING, AND OF GREAT CREDIT TO THE ENTIRE REGION. I WILL GUARANTEE YOU THAT THE COMMISSION, IN ITS PARK ROLE, WILL DEVELOP A PUBLIC PARK THAT WILL BE TRULY OUTSTANDING.

WE DO HAVE A PRELIMINARY DRAWING OF WHAT WE WOULD PROPOSE IF YOU WOULD LIKE TO SEE IT -- AND I AND MY STAFF WILL BE HAPPY TO ANSWER YOUR QUESTIONS.

THANK YOU VERY MUCH.

Senator WALLOP. Thank you very much.

It's my understanding that there are some questions as to what ought or ought not to be included in this easement and staff will work with people, if the easement is the route which we take. I have no reason to doubt the performance of Prince Georges County's ability, but I think that there is some level of security that the Committee might require that would be either in the legislation or in an easement or in some manner expressed in a way that would be enforceable both from your perspective and ours.

Mr. RHOADS. And we certainly understand that, Senator.

Senator WALLOP. Thank you very much.

Mr. Spicer.

STATEMENT OF PARRIS N. GLENDENING, COUNTY EXECUTIVE, PRINCE GEORGES COUNTY, MD, AS PRESENTED BY DON SPICER, ASSISTANT CHIEF ADMINISTRATIVE OFFICER, PRINCE GEORGES COUNTY

Mr. SPICER. Mr. Chairman, County Executive Parris Glendening was here this morning to testify personally. He had to leave a short while ago to catch a previously scheduled flight to Florida. I'd like to read his testimony in his absence.

Senator WALLOP. By all means.

Mr. SPICER. Mr. Chairman, I appreciate the opportunity to appear before you to testify regarding Senate bill 1208 which we believe to be an exceedingly important piece of legislation for Prince Georges County and for the Washington metropolitan region.

The 55 acres of land which this bill would transfer from Interior Department ownership to the Maryland-National Capital Park and Planning Commission will be a welcome addition to the Commission's park land inventory and will permit the development of a waterfront park, open to the public, which will then complement the waterfront development to commence soon in Smoot Bay. The transfer will permit access to that proposed private waterfront development as well, opening the way for a project which will be a showpiece for the entire region.

I am particularly pleased that this legislation addressed the concerns raised about the protection of the Potomac River, its scenic shoreline, the flood plain and the coastal zone. Senator Mathias is to be congratulated for that, as are the developers of the private waterfront project and the National Capital Planning Commission, who have worked out, in extended negotiations, an agreement which establishes restrictions on that development to ensure the necessary environmental protections.

I am, perhaps, more sensitive to those concerns as a result of our statewide initiatives geared toward protecting the Chesapeake Bay and its tributaries. I sit on the Governor's Chesapeake Bay Commission, which is recommending standards, criteria to be met, and measures to protect and enhance the bay.

The appropriate restrictions and protective measures encompassed in this legislation which will accompany development of this beautiful section of waterfront along the Potomac clearly are in accordance with the spirit of our State endeavors. I can assure the committee that the Park and Planning Commission's development of these 55 acres will meet the same high standards and provide access to the public to a beautiful waterfront park.

As most people who have followed the course of economic development in Prince Georges County over the past 2 years are aware, I have been aggressive in the pursuit of quality development for our county. This project clearly is consistent with that thrust. Let me emphasize, however, that my message to the business and development community has been that environmental concerns must also be addressed.

I do not believe that good development is incompatible with a concern for the quality of life and caring for the environment and my bottom line message to developers consistently has been to ensure that our environment is not harmed by the development that occurs.

To sum up the position of Prince Georges County on this bill, we are strongly supportive of the transfer of this property to the Planning Commission because it will permit the development of a public waterfront park and provide access to a highly desirable private waterfront development. We urge your favorable and expeditious action on this legislation.

Senator WALLOP. Thank you very much, Mr. Spicer.

Mr. Rhoads, I understand that Mr. Nash has returned. Mr. Nash.

STATEMENT OF ROBERT J. NASH, VICE CHAIRMAN, NATIONAL CAPITAL PLANNING COMMISSION, ACCOMPANIED BY KATHERINE BARNS SOFFER, GENERAL COUNSEL, AND DONALD F. BOZARTH, ASSOCIATE EXECUTIVE DIRECTOR FOR REGIONAL AFFAIRS

Mr. NASH. Mr. Chairman and members of the committee, my name is Robert Nash. I am the vice chairman of the National Capital Planning Commission, the central planning agency for the Federal Government in the Nation's Capital region. Thank you for the opportunity to appear before the committee. With me today is Mrs. Katherine Barns Soffer, the Commission's general counsel, and Mr. Donald F. Bozarth, the associate executive director for regional affairs.

S. 1208 would authorize the Secretary of the Interior to convey approximately 55 acres of existing federally owned parkland on the Potomac River in Prince George's County, MD, to the Maryland-National Capital Park and Planning Commission for park and waterfront recreation purposes. The National Capital Planning Commission at its meeting on June 27, 1985, reviewed the proposed legislation and authorized this statement.

We understand that the 55 acres of land was originally acquired by the Bureau of Public Roads as part of the approaches to the Woodrow Wilson Bridge. It was subsequently transferred under Public Law 84-534 to the National Park Service as part of the George Washington Memorial Parkway. The tract is located on the north shore of Smoot Bay just south of the bridge approaches. It is undeveloped and largely wooded.

The administration has not had an opportunity to complete its review of what constitutes fair compensation for the land that would be conveyed under S. 1208. We understand that upon completion of this review the Department of Interior will present the administration's position regarding compensation to this subcommittee.

The National Capital Planning Commission does endorse the purpose of the proposed transfer, containing the condition provided in section (a)(2) that the land be used solely, except as provided in section (b) of the bill, for public park and waterfront recreation purposes in accordance with a land use plan to be prepared by the Maryland-National Capital Park and Planning Commission and submitted to this commission for review and comment.

The NCPC recommends, however, that the bill be amended to require its approval of the land use plan, and any future modifications to that plan, for the land to be conveyed under the legislation in order to protect the above-stated Federal interest in the shoreline of the Potomac River. Such approval would be comparable to the bicameral approval process which the two Commissions follow for stream valley park plans for lands acquired by the Maryland Commission under the Capper-Cramton Act of 1930, 46 Stat. 482, as amended.

The NCPC has for some time been concerned about the future development of the adjacent privately owned Smoot Bay waterfront. At the time of the public hearings held by Prince Georges County in 1983 on the proposed M-X-T rezoning of the waterfront, the NCPC identified a number of Federal interests that were involved. These related to the Federal parklands adjoining the site on both the north and the south and to longstanding Federal interests and concerns about development along the shorelines of the Potomac River in the National Capital region, public access to the Potomac River shoreline, and views of the Smoot Bay as seen from the river, the Mount Vernon Memorial Highway and the Virginia shoreline.

Another Federal interest includes the jurisdiction of the U.S. Army Corps of Engineers over any proposed construction in the River at this gateway location. During the public hearings the NCPC also submitted to the Prince Georges County Council some suggested conditions to the rezoning which it felt were necessary to protect Federal interests in the future development of the Smoot Bay waterfront.

The M-X-T rezoning was approved by the council with several conditions; however, these were largely unrelated to Federal interest. The M-X-T zone has, as a matter of right, floor area ratio of 1.0 but permits through various bonuses and incentives a maximum floor area ratio of up to eight times the site area. I've given it an FAR rate. It has no limit at all for the height of buildings. It therefore permits very intensive development of a specific site development plan by the Prince Georges County Planning Board and the County Council.

Late last year, Mr. James T. Lewis, the president of JTL, Inc. approached the NCPC after his firm had taken over what was then called the Bay of Americas project. He indicated his awareness of the NCPC's concern about the scale and extent of the proposed development of the Smoot Bay waterfront. He also indicated his willingness to limit development of these parcels to less than that permitted by the M-X-T zoning, if the NCPC would support the proposed transfer of the 55 acres of Federal parkland on the north shore of the bay to the Maryland-National Capital Park and Planning Commission for use as parkland and waterfront recreation.

Mr. Lewis seeks public access to his site across the tract of land before he can develop the waterfront. After several months of discussion, an agreement was reached and a Memorandum of Understanding signed on May 7, 1985. This is the Memorandum of Understanding referred to in sections (b)(2)(A), (b)(2)(C), and (b)(3) of S. 1208.

The memorandum of understanding signed on May 7 and referred to in paragraph (b)(2)(A) may be amended in the following manner. After approval of a proposed amendment by both of the parties to the memorandum, the proposed amendment shall be published in the Federal Register and referred to the cognizant congressional committees for comment. The amendment shall be effective 60 days after it has been sent to Congress.

The NCPC believes that the restrictions agreed to by the developer will serve both to protect Federal interests in this part of the Potomac River and to recognize the developer's rights under existing local zoning. The agreement permits somewhat more intensive development than the NCPC originally envisioned in its recommendations to the Prince Georges County Council, but it significantly limits the extent of and height of the private development that would be permitted along the shoreline and in the bay under existing M-X-T zoning.

The transfer of the 55 acres under these conditions would allow the desired access yet protect Federal interests in the Potomac River shoreline. For these reasons, the NCPC generally suports the enactment of S. 1208.

Senator WALLOP. Mr. Nash, we have developed a major time crunch in this committee, both with the staff and some witnesses who must leave. Could I ask you, therefore, to summarize the last couple of pages in a sentence or two, with the understanding that obviously the entire statement will be part of the record as if you had delivered it in its entirety?

Mr. NASH. I understand your problem.

I guess what we're asking is that we're asking for an easement control, basically, to ensure that the developer does develop in accordance with the controls, I guess, that are established or that have been placed in the memorandum of understanding.

[The prepared statement of Mr. Nash follows:]

NATIONAL CAPITAL PLANNING COMMISSION
1325 G STREET N.W.
WASHINGTON, D.C. 20576

STATEMENT

OF

ROBERT J. NASH

VICE CHAIRMAN

on

S. 1208, A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND IN THE STATE OF MARYLAND TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

before the

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION OF THE ENERGY AND NATURAL RESOURCES COMMITTEE

UNITED STATES SENATE

July 12, 1985

Mr. Chairman and members of the Committee, my name is Robert J. Nash. I am the Vice Chairman of the National Capital Planning Commission, the central planning agency for the Federal Government in the National Capital Region. Thank you for this opportunity to appear before the Committee. With me today are Ms. Katherine Barns Soffer, the Commission's General Counsel, and Mr. Donald F. Bozarth, Associate Executive Director for Regional Affairs.

S. 1208 would authorize the Secretary of the Interior to convey approximately fifty-five acres of existing Federally-owned parkland, on the Potomac River in Prince George's County, Maryland, to the Maryland-National Capital Park and

Planning Commission for park and waterfront recreation purposes. The National Capital Planning Commission, at its meeting on June 27, 1985, reviewed the proposed legislation and authorized this statement. We understand that the 55 acres of land was originally acquired by the Bureau of Public Roads as part of the approaches to the Woodrow Wilson Bridge. It was subsequently transferred under Public Law 84-534 (70 Stat. 184), to the National Park Service as part of the George Washington Memorial Parkway. The tract is located on the north shore of Smoot Bay just south of the Bridge approaches. It is undeveloped and largely wooded.

The Administration has not had an opportunity to complete its review of what constitutes fair compensation for the land that would be conveyed under S. 1208. We understand that upon completion of this review, the Department of Interior will present the Administration's position regarding compensation to this Subcommittee.

The National Capital Planning Commission (NCPC) does endorse the purpose of the proposed transfer containing the condition provided in Section (a)(2) that the land be used solely (except as provided in Section (b) of the bill) for public park and waterfront recreation purposes in accordance with a land use plan to be prepared by the Maryland-National Capital Park and Planning Commission and submitted to this Commission for review and comment. The NCPC recommends however, that the bill be amended to require its approval of the land use plan (and any future modifications to that plan) for the land to be conveyed under the legislation, in order to protect the above-stated Federal interests in the shoreline of the Potomac River. Such approval would be comparable to the bicameral approval process which the two Commissions follow for stream valley park plans for lands acquired by the Maryland Commission under the Capper-Cramton

Act of 1930, 46 Stat. 482, as amended. The NCPC has for some time been concerned about the future development of the adjacent privately-owned Smoot Bay Waterfront. At the time of the public hearings held by Prince George's County in 1983 on the proposed M-X-T rezoning of the waterfront, the NCPC identified a number of Federal interests that were involved. These related to the Federal parklands adjoining the site on both the north and the south and to longstanding Federal interest and concerns about development along the shoreline of the Potomac River in the National Capital Region, public access to the Potomac River shoreline, and views of Smoot Bay as seen from the River, the Mount Vernon Memorial Highway, and the Virginia shoreline. Another Federal interest includes the jurisdiction of the U.S. Army Corps of Engineers over any proposed construction in the river at this gateway location. During the public hearing, the NCPC also submitted to the Prince George's County Council some suggested conditions to the rezoning which it felt were necessary to protect Federal interests in the future development of the Smoot Bay Waterfront.

The M-X-T rezoning was approved by the Council with several conditions; however, these were largely unrelated to Federal interests. The M-X-T zone has a matter-of-right floor area ratio (FAR) of 1.0 but permits through various bonuses and incentives a maximum floor area ratio of up to eight times the site area (FAR 8-0). It has no limit at all for the height of buildings. It therefore permits very intensive development both on the land and in the Bay itself, subject to the subsequent approval of a specific site development plan by the Prince George's County Planning Board and the County Council.

Late last year, Mr. James T. Lewis, the President of JTL, Inc., approached the NCPC after his firm had taken over what was then called the Bay of Americas project. He indicated his awareness of the NCPC's concerns about the scale and extent of the proposed development of the Smoot Bay Waterfront. He also indicated his willingness to limit development of these parcels to less than that permitted by the M-X-T zoning, if the NCPC would support the proposed transfer of the 55 acres of Federal parkland on the north shore of the Bay to the Maryland-National Capital Park and Planning Commission for use as parkland and waterfront recreation. Mr. Lewis seeks public access to his site across the tract of land before he can develop the waterfront. After several months of discussion, an agreement was reached and a Memorandum of Understanding signed on May 7, 1985. (This is the Memorandum of Understanding referred to in Sections (b)(2)(A), (b)(2)(C), and (b)(3) of S. 1208.)

The National Capital Planning Commission recommends that S. 1208 be amended to add the following paragraph:

The Memorandum of Understanding signed May 7, 1985 and referred to in paragraph (b)(2)(A) may be amended in the following manner: after approval of a proposed amendment by both of the parties to the Memorandum, the proposed amendment shall be published in the Federal Register and referred to the cognizant Congressional committees for comment. The amendment shall be effective sixty (60) days after it has been sent to Congress.

The NCPC believes that the restrictions agreed to by the developer will serve both to protect Federal interests in this part of the Potomac River and to recognize the developer's rights under existing local zoning. The agreement permits somewhat more intensive development than the NCPC originally envisioned in its recommendations to the Prince George's County Council, but it significantly limits the extent of and height of the private development that would be permitted along the shoreline and in the Bay under existing M-X-T zoning. The transfer of the 55 acres under these conditions would allow the desired access yet protect Federal interests in the Potomac River shoreline.

For these reasons, the NCPC generally supports the enactment of S. 1208.

We are concerned, however, that as S. 1208 is currently drafted, the provisions of the Memorandum of Understanding would not be binding on the developer or its successors in title once the conveyance and grant of access are completed. Therefore, we recommend adding the following section providing for the restrictions contained in the Memorandum of Understanding to be incorporated into a deed of easement to run with the land, so as to be binding upon the developer and its successors and assigns: (We also recommend that any other land use restrictions imposed by the Prince George's County Council also be incorporated into the easement.)

> Prior to the granting of access across the real property conveyed pursuant to subsection (a), as authorized by paragraph (1) of subsection (b), the owner of real property adjacent thereto receiving said grant of access shall convey to the National Capital Planning Commission, an easement in perpetuity, which shall run with the land, and which shall incorporate the restrictions on development contained in the Memorandum of Understanding signed May 7, 1985, referred to in subsection (b)(2)(A), and which shall incorporate any other land use restrictions imposed by the Prince George's County Council during the process of approval of any land use and development plan for the adjacent real property.

We are also concerned about the impact of the provisions of subsection (d) of S. 1208. Subsection (d) of S. 1208 provides that the National Capital Planning Commission, the Maryland-National Capital Park and Planning Commission, the Prince George's County Executive, "or any other aggrieved person" may bring an action in either United States District or Maryland

State Courts to enforce compliance with the Memorandum of Understanding. In our view, a special standing and/or jurisdictional provision is not necessary for the accomplishment of the purposes of S. 1208; moreover with the easement amendment recommended above included in the legislation, subsection (d) would appear to be unnecessary, because enforcement of any violations of easements created as part of the grant of access would be attainable under existing standing and/or jurisdictional statutes.

Mr. Chairman, this completes my prepared testimony on behalf of the National Capital Planning Commission regarding S. 1208. Thank you for the opportunity to testify before the Committee. Our Commission looks forward to working with the County, the developer, the affected State agencies, the National Park Service and the Baltimore District of the U.S. Army Corps of Engineers as planning for the Smoot Bay area proceeds.

If you have any questions about the Commission's views, I will be glad to answer them.

Senator WALLOP. You want some reach into that to assure its performance, is basically what you're asking for?

Mr. NASH. Yes. Otherwise there is no assurance that that can happen.

Senator WALLOP. And I think we understand that and will work with you, Director Fish and others to make certain that whatever bill does come out after the rest of the hearing process—and I know we have other witnesses yet—does make a reflection to allay your concerns, those of Prince Georges County, as well as the National Capital Planning Commission.

Mr. NASH. Well, if you're willing to do that and work with us, we don't have a problem.

Senator WALLOP. We always have a problem when there are different sides of an issue. I understand the problems that are reflected in your testimony and that which preceded it. Director Fish seems to think that the appraisal would be available to us after the Labor Day weekend when Congress returns and we will revisit this issue then.

I apologize for interrupting your testimony, but we have such a long list here and some constraints that are a little beyond my reach. I appreciate your understanding.

Mr. NASH. All right. Thank you.

Senator WALLOP. Thank you very much.

Now we move to a panel consisting of Mr. James T. Lewis, president of JTL Enterprises and June White Dillard, Esquire, co-chairman, Bay of the Americas' Minority Business Advisory Board.

Mr. Lewis.

STATEMENT OF JAMES T. LEWIS, PRESIDENT, JTL ENTERPRISES, LTD.; ACCOMPANIED BY PAUL ZENECKI, ESQ., COUNSEL, JTL ENTERPRISES, LTD.

Mr. LEWIS. Thank you, Mr. Chairman. My name is James T. Lewis, and I am the signator of the agreement with the National Capital Planning Commission. To my left is Paul Zenecki, who is the attorney for our company.

First I want to thank the chairman for bringing S. 1208 to a hearing so expeditiously and I'll try to get through this testimony with equal expedition. This legislation, introduced by Senator Mathias and Senator Sarbanes of Maryland, will have a tremendous beneficial impact not only on the State of Maryland and Prince Georges County but, we are convinced, on our Nation's Capital as well.

The memorandum of understanding which is before you today was reached after several long and rather pleasant negotiations with the National Capital Planning Commission, during which we mutually came to an understanding as to the fair objectives of all the parties.

The agreement, in fact, was not difficult to negotiate in that the viewpoint of the National Capital Planning Commission, the National Park Service, the Maryland-National Capital Park and Planning Commission, ourselves and our architects were basically the same. We all recognize the attractiveness of the property and the responsibility to develop it in a proper manner.

My first action as the developer of the property when I undertook the project last November was to retain the services of Phil Johnson and John Burgee, who are widely considered to be the premier architects in our country. They approached the land planning and development with a great sensitivity to environmental considerations.

If I may refer to the preliminary land use chart we have, Mr. Chairman, and, Paul, do you want to go point out, as you can see, the predominant development along the shoreline is residential. Toward the southern end of the property there is a small inn which will accommodate 50 suites and perhaps a yacht club. And then coming around along the bay area, the shoreline of which we will stabilize and fill in to some extent, there are the townhouses, which I believe are colored in yellow, and some apartments, which are intended to break up the skyline, which are in another color.

They roughly go up to five or six stories in height, the apartments. Several miniparks, as you can see, were created throughout the project and a hiker/biker trail was created along the River's edge, which connects to the south with other parkland. And I have attached a preliminary sketch of the hiker/biker trail to my statement, which is in the record.

As part of the actual land planning, a trade was proposed with the Maryland-National Capital Park and Planning Commission whereby the Park Service would acquire certain property that, combined with the Federal transfer, would create a continuous park from Oxon Hill Road and the historic Oxon Hill Manor site to the river's edge.

By virtue of this development, access will be provided to the public to reach the waterfront with its parks and other recreational facilities. To this date, the waterfront has been inaccessible to the general public.

No development will take place on the National Park Service's land. A road will be constructed through the property. It is significant to observe that the original purpose for the Federal Government acquiring this property was to run a road through it, that road to be part of the George Washington Memorial Parkway on the Maryland side—a project that has long since been abandoned. In fact, what the property will now be used for if this bill passes is exactly what it was proposed for in the first place.

It was impressed upon me when I acquired this property that Prince Georges County was strongly desirous of having a high quality development in this location. We believe that with the architecture of Philip Johnson and John Burgee the quality of the overall project as well as the environmental aspects of the development have exceeded all expectations.

Last and perhaps least important of this development is the economic benefit that will accrue to the county generally and, in particular, to the adjoining communities. The tax base obviously will increase. A great many jobs will be created and the value of the property of the adjoining communities will surely be increased by virtue of the high quality of this project.

In summary, this development will greatly improve park and waterfront recreational availability for the citizens and tourists of the greater metropolitan Washington, DC, area while at the same time providing the community with an extraordinarily high quality development.

Accordingly, virtually all responsible authorities at every level of the government have supported this project, including the U.S. Senators from Maryland, the two Representatives to the House from the area, the secretary of the Maryland Department of Natural Resources, the National Capital Planning Commission, the Maryland-National Capital Park and Planning Commission, and a rare unanimous vote of the Prince Georges County Council. This in turn, of course, further reflects the broad support of the citizens for the project.

We therefore urge the subcommittee to support S. 1208 and work towards its passage. And, incidentally, Mr. Chairman, it is agreeable to us to place the easement on the property that had been referred to in prior testimony.

[The prepared statement and a subsequent submittal by Mr. Lewis follows:]

Testimony

of

Mr. James T. Lewis, President
JTL Enterprises, Ltd.

on

S. 1208

Before the

Subcommittee on Public Lands, Reserved Water and Resource Conservation

Committee on Energy and Natural Resources

United States Senate

July 12, 1985

My name is James T. Lewis and I am the signator on the agreement with the National Capital Planning Commission.

First, I want to thank the Chairman for bringing S.1208 to a hearing so expeditiously. This legislation, introduced by Senator Mathias and Senator Sarbanes of Maryland, will have a tremendous and beneficial impact not only on the State of Maryland and Prince George's County, but, we are convinced, on our Nation's Capital as well.

The Memorandum of Understanding which is before you today was reached after several long and pleasant negotiations with the National Capital Planning Commission, during which we mutually came to an understanding as to the fair objectives of all parties.

This agreement, in fact, was not difficult to negotiate in that the viewpoint of the National Capital Planning Commission, the National Park Service, the Maryland-National Capital Park and Planning Commission, ourselves and our architects were never at odds. We all recognize the attractiveness of this unique piece of property and the responsibility to develop it in a proper manner.

My first action as the developer of the property when I undertook the project last November was to retain the services of Philip Johnson and John Burgee who are widely considered as this Country's premier architects. They approached the land planning and development with a great sensitivity to environmental considerations. The commercial areas of this mixed use development were moved to the north near the beltway, for the greater part of the shoreline that is most visible a predominately residential community was planned, and the building heights were reduced substantially along the shoreline. Several mini-parks were created throughout the project and a hiker-biker trail was created along the rivers edge which connects to the south with other park land. I have attached as part of my testimony an appendix which provides an initial design concept for this waterfront walkway.

As part of the actual land planning, a trade was proposed with the Maryland-National Capital Park and Planning Commission whereby that park service would acquire certain property that, combined with the federal transfer, would create a continuous park from Oxon Hill Road and the historic Oxon Hill Manor site to the river's edge.

By virtue of this development, access will be provided to the public to reach the waterfront with its parks and other recreational facilities. To this date, the waterfront has been inaccessable to the general public.

No development will take place on the National Park Service land. A road will be constructed through the property. It is significant to observe that the original purpose for the federal government acquiring this property was to run a road through it; that road was to be part of the George Washington Memorial Parkway on the Maryland side - - a project that has long since been abandoned.

It was impressed upon me when I acquired this property that Prince George's County was strongly desirous of having a high quality development in this location. We believe that, with the architecture of Philip Johnson and John Burgee, the quality of the overall project, as well as the environmental aspects of the development, have exceeded all expectations.

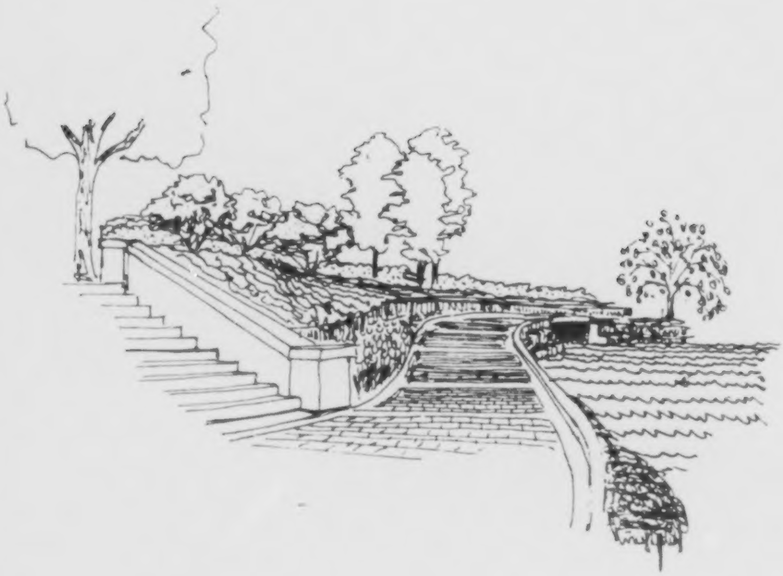
Last and perhaps the least important aspect of this development is the economic benefit that will accrue to the County generally, and in particular to the adjoining communities. The tax base will increase. A great many jobs will be created and the value of property in the adjoining communities will surely be increased by virtue of the high quality of the project.

In summary, this development will greatly improve park and waterfront recreational availability for the citizens and tourists of the greater metropolitan Washington, D.C. area, while at the same time providing the community with an extraordinarily high quality development. Accordingly, virtually all responsible authorities of every level of government and the National Park Service have supported this project, including the U.S. Senators from Maryland, the two Representatives to the House from the area, the Secretary of the Maryland Department of Natural Resources, the National

Capital Planning Commission, the Maryland-National Capital Park and Planning Commission, and a rare unanimous vote of the Prince George's County Council. This, in turn, of course, further reflects the broad support of the citizens for this project.

We therefore urge the Subcommittee to support S.1208 and work toward its passage.

APPENDIX A



"CONCEPTUAL SHORELINE"

JAMES T. LEWIS CAPITAL ENTERPRISES
A LIMITED PARTNERSHIP
1950 OLD GALLOWS ROAD
VIENNA, VIRGINIA 22180
[illegible]
[illegible]

JTL ENTERPRISES LTD
GENERAL PARTNER
JAMES T. LEWIS
PRESIDENT
RICHARD M. [illegible]
EXEC VICE PRESIDENT
CHARLOTTE H. LEWIS
VICE PRESIDENT
[illegible]
[illegible]
[illegible]
TREASURER
[illegible]
SECRETARY

MARYLAND OFFICE
[illegible] INDIAN HEAD HIGHWAY
FORT WASHINGTON, MARYLAND 20744
[illegible]

July 26, 1985

Senator Malcolm Wallop
Chairman, Subcommittee on Public
  Lands & Reserved Water
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Thank you again for the opportunity to testify before your Subcommittee regarding S. 1208. Realizing the great demand and time constraints under which the Senate labors, I am truly appreciative of your thoughtful consideration.

The purpose of this letter is to forward to you the enclosed drawings of the parcel of land which is the subject of S. 1208. This information is provided in view of the valuation issues raised by both the National Park Service and the National Capital Planning Commission in their testimony.

Drawing A is a diagram of the property which shows "net developable acreage" for purposes of determining a current fair market value. This sketch reveals that the parcel is 54.73 acres in size; however, according to our calculations only 8.7 acres of this property would be "developable" under current zoning. The net figure is determined by subtracting: acreage currently submerged; that portion of the land within the 100 year flood plain; land already dedicated to the State Highway Commission for road construction; as well as those portions of the property which are inaccessible due to topography.

Drawing B is a reduction of a topographical map of the property which shows the severe erosion along the shoreline that has occurred during the past 16 years.

I am hopeful that the information contained in the enclosed will be helpful to the Committee as it considers S. 1208. I would therefore respectfully request this information be made a part of the record of the July 12, 1985 Hearing.

Thank you for your consideration.

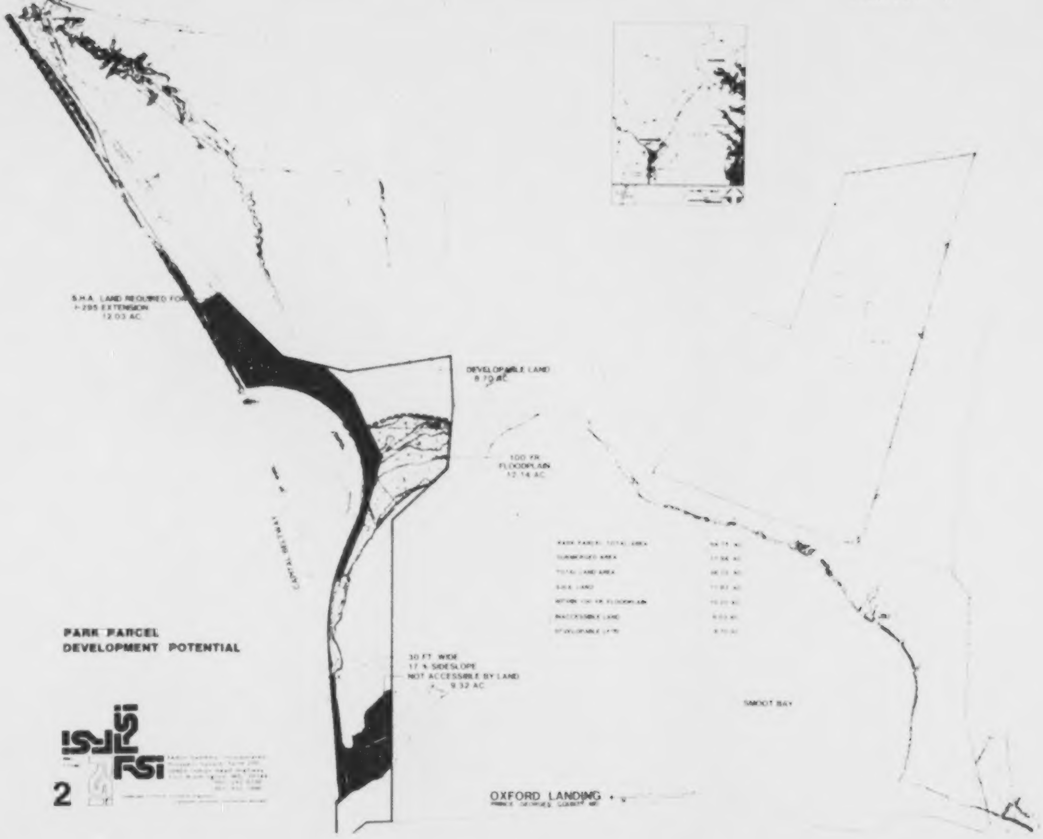
Very truly yours,

JAMES T. LEWIS
CAPITAL ENTERPRISES

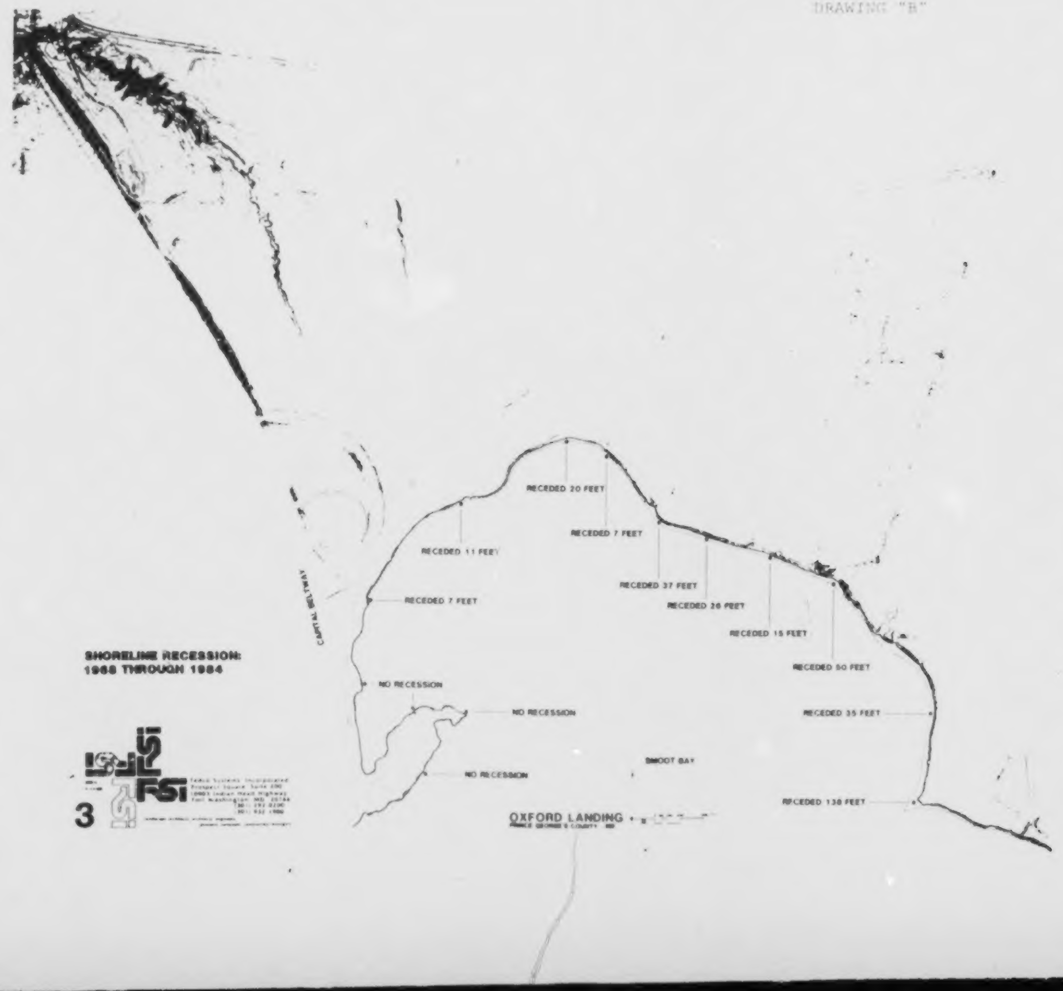
James T. Lewis

JTL/llp
Enc: a/s

DRAWING "A"


S.H.A. LAND REQUIRED FOR
I-295 EXTENSION
12.03 AC
DEVELOPABLE LAND
8.70 AC
100 YR.
FLOODPLAIN
12.14 AC
30 FT. WIDE
17 % SIDESLOPE
NOT ACCESSIBLE BY LAND
9.32 AC
CAPITAL BELTWAY
PARK PARCEL TOTAL AREA
SUBMERGED AREA
TOTAL LAND AREA
S.H.A. LAND
WITHIN 100 YR FLOODPLAIN
INACCESSIBLE LAND
DEVELOPABLE LAND
SMOOT BAY
OXFORD LANDING
PRINCE GEORGES COUNTY MD
PARK PARCEL
DEVELOPMENT POTENTIAL
FSI
2

DRAWING "B"


CAPITAL BELTWAY
RECEDED 20 FEET
RECEDED 7 FEET
RECEDED 11 FEET
RECEDED 37 FEET
RECEDED 26 FEET
RECEDED 7 FEET
RECEDED 15 FEET
RECEDED 50 FEET
NO RECESSION
NO RECESSION
RECEDED 35 FEET
SMOOT BAY
NO RECESSION
RECEDED 138 FEET
OXFORD LANDING
PRINCE GEORGE'S COUNTY MD
FSI
3

SHORELINE RECESSION:
1968 THROUGH 1984

Senator WALLOP. Thank you, Mr. Lewis. I appreciate that. Ms. Dillard.

STATEMENT OF JUNE WHITE DILLARD, ESQ., COCHAIRMAN, BAY OF THE AMERICAS' MINORITY BUSINESS ADVISORY BOARD, OXON HILL, MD

Ms. DILLARD. Thank you, Mr. Chairman. Thank you for the opportunity to address you on Senate bill 1208. My name is June White Dillard. I'm a resident of Camp Springs, MD, in southern Prince Georges County, and I am a practicing attorney, with offices located in Oxon Hill, which is adjacent to the property which is the subject of Senate bill 1208.

I am here today as a citizen and as cochairman of the Minority Business Advisory Board of Bay of Americas, to testify in support of this legislation. The Minority Business Advisory Board is a group of 15 organizations, the majority of which are centered in southern Prince Georges County. We also present minority businesses throughout the Washington metropolitan area. The board was organized in 1982 and has been involved actively in the Bay of the Americas project since that time.

Our support for this legislation is twofold—recreational and economic. Public access to the Potomac River in Prince Georges County is severely limited. We understand that the Maryland-National Capital Park and Planning Commission has proposed a public beach and waterfront park along the Potomac. This is a logical plan for the area in view of the adjacent existing park land—the Oxon Hill Manor property and the Betty Blume neighborhood park. A major public park in such a convenient location is long overdue for the residents of southern Prince Georges County and indeed the Metropolitan Washington area.

Second, we strongly support the high quality development proposed for the adjacent private property. Mr. Jim Lewis, who appears before you today, has shared with us his new and exciting plans for this mixed use development, including the waterfront residential community, and he has actively solicited not only our comments and advice but our involvement as businesses as well.

In fact, his efforts to work closely not only with government officials but with diverse community groups and the minority business community is reflected in the broad-based public support for this development in Prince Georges County.

The economic impact of this project will obviously benefit all residents of our county. However, we feel its potential effects on the minority business community, particularly in terms of business opportunities and professional services, will be especially beneficial.

As we see it, this development, especially the residential shoreline community with its attendant amenities, will complement and enhance the park facilities proposed by the Maryland-National Capital Park and Planning Commission. Together they will provide a pleasant working and living environment for the residents of Prince Georges County and a unique resource for the Washington metropolitan area.

I would also like to mention that I testified in support of this development before the Prince Georges County zoning hearing examiner and the Prince Georges County Council. At that time I spoke as the facilitator of an umbrella group representing nine minority community organizations, including five civic associations in southern Prince Georges County. The project was subsequently approved by a unanimous vote of the Prince Georges County Council.

In view of the beneficial effects of this legislation for Prince Georges County and the National Capital region, we affirmatively endorse Senate bill 1208 and urge the committee's approval.

[The prepared statement of Ms. Dillard follows:]

Statement of
June White Dillard
before the
Subcommittee on Public Lands, Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
Regarding S.1208
July 12, 1985

My name is June White Dillard. I am a resident of Camp Springs, Maryland in Southern Prince George's County and I am a practicing attorney with offices located in Oxon Hill, adjacent to the property which is the subject of S.1208.

I am here today as a citizen, and as Co-Chairman of the Minority Business Advisory Board of Bay of Americas, to testify in support of this legislation. The Minority Business Advisory Board is a group of fifteen organizations, the majority of which are centered in southern Prince George's County. We also represent minority business throughout the Washington metropolitan area. The Board was organized in 1982 and has been involved actively in the Bay of the Americas project since that time.

Our support for this legislation is twofold: recreational and economic. Public access to the Potomac River in Prince George's County is severely limited. We understand that the Maryland-National Capital Park and Planning Commission has proposed a public beach and waterfront park along the Potomac. This is a logical plan for the area in view of the adjacent existing park land: the Oxon Hill Manor property and the Betty Blume neighborhood park. A major public park in such a convenient location is long overdue for the residents of southern Prince George's County, and indeed, the metropolitan Washington area.

Second, we strongly support the high quality development proposed for the adjacent private property. Mr. Jim Lewis, who appears before you today, has shared with us his new and exciting plans for this mixed use development, including the waterfront residential community, and has actively solicited not only our comments and advice but our involvement as businesses as well. In fact, his efforts to work closely not only with government officials, but with diverse community groups and the minority business community, is reflected in the broad-based public support for this development in Prince George's County.

The economic impact of this project will obviously benefit all residents of our County. However, we feel its potential effects on the minority business community, particularly in terms of business opportunities and professional services, will be especially beneficial. As we see it, this development, especially the residential shoreline community with its attendant amenities, will complement and enhance the park facilities proposed by the Maryland-National Capital Park and Planning Commission. Together they will provide a pleasant living and working environment for the residents of Prince George's County and a unique resource for the Washington metropolitan area.

I would like to mention that I also testified in support of this development before the Prince George's County Zoning Hearing Examiner and the Prince George's County Council. At that time I spoke as the facilitator of an umbrella group representing nine minority community organizations, including five civic associations in southern Prince George's County. The project was subsequently approved by a unanimous vote of the Prince George's County Council.

In view of the beneficial effects of this legislation for Prince George's County and the National Capital region, we affirmatively endorse S.1208 and urge the Committee's approval.

Senator WALLOP. Thank you, Ms. Dillard.

Mr. Lewis, just briefly, what other access options are there to you?

Mr. LEWIS. Senator, there is a point of access off of Oxon Hill Road--Paul, if you want to point that out—which would only add, if we had to go through there, add to the congestion in that area. I think all the traffic experts would much prefer—State, county and Federal—would rather see the access as the way we've indicated it there.

Senator WALLOP. That would be down through——

Mr. ZENECKI. Yes, Senator. This is Oxon Hill Road where I'm pointing now, which is a windy, two-lane road mainly used by residents which would be rather substandard and not fit and an inconvenience to people who use that currently. Thus, to expedite access and make it more meaningful for this property that road becomes inadequate. This would make it adequate as part of this entire new system.

The State currently is building an S-curve—they call it an S-curve—which will weave traffic throughout this Oxon Hill area and as part of that construction this road could be constructed to serve this area and thus relieve congestion on this road up here.

Senator WALLOP. Thank you.

The last panel consists of Mr. Hayden Garber of Oxon Hill; Herbert Rosenstock of the Maryland Conservation Council; James Vance of Camp Springs; Carmen Anderson, Brandywine; and Mr. Ben Bereskin of Bowie.

Mr. Garber.

STATEMENT OF HAYDEN S. GARBER, OXON HILL, MD

Mr. GARBER. Mr. Chairman, my name is Hayden S. Garber, a resident and property owner in Oxon Hill, MD. I appreciate the privilege of appearing to present the views on the pending bill, S. 1208, which proposes a gift of U.S. land located in the Oxon Hill area, worth probably several million dollars. The land overlooks the Potomac River just south of the beltway and at the east end of the Wilson Bridge.

The bill incorporates by reference a memorandum of understanding which states the terms of an agreement, the text of which is not appended but is found in Senate proceedings printed in the Congressional Record for May 24, 1985, at page S6072. The first sentence of the text represents that it is:

> The agreement of the National Capital Planning Commission, hereinafter called the Commission, and JTL Enterprises, Limited, hereinafter called the Developer.

I shall use the term "developer" but the committee might take note that there are two other entities which seem to be parties to the agreement. In the concluding paragraph, item 16, amendments, reference is made to James T. Lewis, Capital Enterprises, Ltd., and again in the seal and attestation to the document the business name JTL Inc., a corporate entity, appears for the first time. The principal officer of the corporation subscribes to the agreement for the corporation.

The Government lands are located strategically adjacent to approximately 450 acres of the developer's project. The surrounding community is about 30 years old and zoned for single family residences on lots a half acre or more. The announced development would include a 1,000-slip marina, luxury high rise apartments, hotel and motel facilities, condominiums, deluxe single family homes, light manufacturing, office buildings, and retail establishments.

Whether it is realized or not and regardless of the contentions to the contrary, this bill injects the Congress and the U.S. Government into a local zoning controversy concerning development of lands in the area.

During the 39 years of my service in the House of Representative staff, including 15 years as committee counsel, I am not aware of any Senate or House committee becoming involved in a controversy of this sort. Requests of this character were firmly and politely denied.

Another general rule followed by Congress is that committees avoid consideration of legislation involving issues pending before the courts. This zoning case has pending a petition for writ of certiorari before the Maryland Court of Appeals. The rule could apply in this case. If the lands were transferred as proposed in the legislation and the appellants are successful in the appeal, the valuable lands would have been given away.

The purpose of the bill, as stated in the first paragraph of the agreement is, and I quote: "to maintain the developer's flexibility to preserve the financial viability of the architectural integrity" and so on, end of quote, and to provide access along the Potomac River. Seldom does Congress become interested in the financial viability of a developer.

This committee will want to take particular note of the provisions in the concluding paragraph of the agreement incorporated in the bill. It states as follows, and I quote: "This agreement may be modified at any time by the mutual agreement of the National Capital Planning Commission and James T. Lewis Capital Enterprises, Ltd." Thus, after the lands have been secured from the Government the parties to the agreement may alter the restrictions and limitations which are a consideration for the agreement and transfer of title to the parkland.

If it does, it begins to appear that the agreement is mostly window dressing. That view may be justified. As a further example, the last clause of the first paragraph of the agreement states that the 55 acres of land are to be given to, and I quote: "The Maryland National Capital Park and Planning Commission for the public waterfront park use."

But the 55 acres of waterfront lands now are public lands of the National Park Service. If this puzzles the inquiring mind, an examination of the Maryland-Capital Park and Planning Commission's maps showing existing areas, park areas, will show that the commission doesn't need the additional park space.

Essentially adjacent to the land to be transferred the commission already has a large public park, the Betty Blume Park. It becomes increasingly clear that the real beneficiary of this legislation must be the developer. The bill does not assure any benefit to the public generally or to the residents of the area.

The justification for this legislation resolves to the question: Is it worth the public interest to give away public lands worth millions of dollars to provide access for a private development? At this point there is no certainty that the developer will need access. The need is contingent upon getting clearance of zoning and approval of numerous requirements of other public agencies and commissions. Certainly a better solution can be found, if a better solution becomes necessary and desirable. The legislation should be tabled.

[The prepared statement of Mr. Garber follows:]

STATEMENT OF HAYDEN S. GARBER
BEFORE THE SENATE SUB COMMITTEE ON PUBLIC LANDS ON RESERVED WATER OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

S.1208 - A Bill - To Authorize the Secretary of the Interior to Convey Certain Lands Located in the State Of Maryland to the Maryland National Capital Park and Planning Commission

Mr. Chairman and Members of the Subcommittee:

My name is Hayden S. Garber, a resident and property owner in Oxon Hill, Maryland. I appreciate the privilege of appearing to present views on the pending Bill S. 1208, which proposes a gift of United States land, located in the Oxon Hill area, probably worth several million dollars. The land overlooks the Potomac River, just south of the Beltway and at the east end of the Wilson Bridge.

The Bill incorporates by reference a "Memorandum of Understanding" which states the terms of an "agreement," the text of which is not appended but is found in the Senate proceedings printed in the Congressional Record for May 24, 1985, at page S6072. The first sentence of the text represents that it is, and I quote, " . . . the agreement of the National Capital Planning Commission (hereinafter called the Commission) and JTL Enterprises, Ltd., (hereinafter called the Developer) . . ." End of quote.

I shall use the term "developer" but the Committee might take note that there are two other entities which seem to be parties to the agreement. In the concluding paragraph related to Item 16. Amendments, reference is made to "James T. Lewis, Capital Enterprises, Ltd. . . ." Then again, in the seal and attestation to the document, the business name, "JTL, Inc." a corporation entity appears for the first time. The principal officer of the Corporation subscribes to the agreement for the Corporation. To determine the respective rights and obligations of the three entities might require litigation.

The Bill would make the Department of Interior the donor of 55 acres of valuable National Park Service lands. The recipient of the gift would be the local bi-county, Maryland National Capital Park and Planning Commission. Neither the Department of

Interior nor the National Park Service, or the Maryland Commission is a party to the agreement. The interest in and the benefits of the transaction to be realized by the developer from the Maryland Commission are not explained in detail.

The government lands are located strategically adjacent to approximately 450 acres of the Developers project. The surrounding community is about 30 years old and is zoned for single-family residences on lots of a half acre or more. The announced development would include a 1,000 slip marina, luxury high rise apartments, hotel and motel facilities, condominiums, deluxe single family homes, light manufacturing, office buildings and retail establishments. The additional traffic to be generated at the now unbearably congested Oxon Hill Road/Indian Head Highway/Beltway intersection, is estimated at 10,000 car trips per day.

I would prefer not to burden this Committee with this testimony. Whether it is realized or not, and regardless of contentions to the contrary, this bill injects the Congress and the U.S. Government into a local zoning controversy concerning the development of lands in the area. The issue is an important concern to me and to hundreds of other Oxon Hill residents and to thousands of commuters who must daily enter the traffic congestion. Individuals testified and others were represented by counsel in opposing the zoning change before the County Council.

During the 39 years of my service as House of Representatives Staff, including 15 years as Committee Counsel, I was not aware of any Senate or House Committee becoming involved in a local controversy of this sort. Requests of this character were firmly but politely denied. Another general rule followed by the Congress is that committees avoid consideration of legislation involving issues pending before the Courts. This zoning case has pending a Petition for Writ of Certiorari before the Maryland Court of Appeals. The rule could apply in this case. If the lands were transferred as proposed in this legislation and the appellants are successful in the appeal, the valuable lands would have been given away for no purpose.

The purpose of the bill, as stated in the first paragraph of the agreement is, (and I quote) " . . . to maintain the Developer's flexibility to preserve the financial viability and architectral integrity of the project . . . " (end of quote) and to provide public access along the Potomac River. Seldom does the Congress become interested in the "financial viability" of a developer.

Even if this bill were for a bonafide public purpose, rather than being a private relief measure, action by the Congress should await certainty that the purpose can be accomplished.

The project faces numerous hurdles. Ecological and environmental requirements must be met. The dredging and filling of 240 acres of State-owned land in Smoot Bay will be no boon fish and marine life in the Potomac.

The submerged land belongs to the State of Maryland under statute enacted in 1973. Approval and permission of use must be secured from the State under the provisions of the Maryland Natural Resources Article.

The project could not proceed without the approval of permits by the Corps of Army Engineers who control use of navigable waters. The project would violate the criteria recommended for the tide water areas of the Potomac River by the Chesapeake Bay Critial Areas Commission.

The Committee will want to take particular note of the provisions in the concluding paragraph of the agreement incorporated in the bill. It states as follows, and I quote, "This agreement may be modified at any time by the mutual agreement of the National Capital Planning Commission and James T. Lewis Capital Enterprises, Ltd." (End of quote) Thus, after the lands have been secured from the government, the parties to the agreement may alter the restrictions and limitations which were a consideration for the agreement and transfer of title to the Park Service land.

If it begins to appear that the agreement is mostly "window dressing," that view may be justified. As a further example, the last clause of the first paragraph of the agreement states that the 55 acres of land are to be given to the, and I quote, "Maryland National Capital Park and Planning Commission for the public waterfront park use." (End of quote) But the 55 acres of waterfront lands are now public park lands of the National Park Service. If this puzzles the inquiring mind, an examination of the Commission's maps showing existing park areas will show that the Commission doesn't need the additional land for park space. Essentially adjacent to the land to be transferred, the Commission already has a large public park, The Betty Blume Park. It becomes increasingly clear that the real beneficiary of this legislation must be the Developer. The bill does not assure any benefit to the public generally or to the residents of the neighborhood. Except for the fact that a gift of 55 acres of Potomac waterfront land would be acceptable to any donee, the bill does not benefit the Department of Interior or the National Park Service.

The justification for this legislation resolves to the question, "Is it in the public interest to give away public lands worth millions of dollars to provide access for a private development?" At this point there is no certainty the Developer will need access. The need is contingent on getting clearance of zoning and approval of numerous requirements of other public agencies and commissions. Certainly a better solution can be found if the better solution becomes necessary and desirable. The legislation should be tabled.

Senator WALLOP. Thank you, Mr. Garber.
Mr. Rosenstock.

STATEMENT OF HERBERT B. ROSENSTOCK, MARYLAND CONSERVATION COUNCIL

Mr. ROSENSTOCK. Yes, sir. Mr. Chairman, thank you very much for giving us a chance to talk to you today. My name is Herbert Rosenstock. I live in Temple Hills and I am here to testify on behalf of the Maryland Conservation Council.

The Maryland Conservation Council is an organization of about 25 or 30 Statewide organizations interested in environmental matters and the total membership of those membership organizations is about 30,000.

In the view of the lateness of the time I'll skip two of the points that I have in my written summary here, but before talking about the two others I would, Senator Wallop, like to answer your question as to what other access there is available to the parkland.

I happen to be well familiar with the area. I was taking walks down there back when my children were small and they're over 30 now, and I still do take walks down there. I have approached it from Oxon Hill Road, from Panorama Drive, from River Bend Road, and from the Federal park further down.

I can assure you, sir, leading into my point No. 2, that there is no access problem at this time to get to the shoreline, and there would not be at any other time. The access problem comes up only when the development starts, when you start building condominiums, hotels, convention centers, and thousand-slip marinas.

The bill before you is, for all practical purposes, a Federal giveaway to a local developer, to a for-profit real estate development of a private nature, and we do not think that that is a proper use of Federal parkland. Most seriously, though, I think is the problem of the cleanup of the Chesapeake Bay. This is a matter which I think all of us in Maryland are proud of.

There was a concerted effort last year not only in Maryland but also in the neighboring States, and a successful effort, with the help, let me add of not less than President Reagan, who came into the State of Maryland and campaigned for it, to clean up the Chesapeake Bay. The regretable thing is that the capstone legislation which is called the critical areas bill is not in effect yet.

The rules for the critical areas are now being—in the process of being written. Hearings are being held Statewide to decide exactly what restriction will be applied to critical areas, which, among other things, include all shorelines of the Chesapeake Bay and its tributaries back to 1,000 feet.

And while all construction is not going to be prohibited, it is inconceivable to me that the final regulations will allow buildings and construction and filling of the nature that is contemplated here and that the memorandum of understanding includes. I think it is really regretable that this bill would attempt to get in and pollute the Chesapeake Bay further at a time just before it's becoming illegal. The bill should, I think, be rejected.

Thank you.

[The prepared statement of Mr. Rosenstock follows:]

president
Richard J. de Sève, 1914 Cavalier Circle, Crofton, Maryland 21114, telephone 721-1745
first vice president
George H. Fenwick, Five Swallow Lane, Harwood, Maryland 20766, telephone (301) 224-2287
second vice president
Donald Goldbloom, 511 Washington Street, Cumberland, Maryland 21502, telephone (301) 777-8085
corresponding secretary
Cheryl White, 14136 Grand Pre Road, #21, Silver Spring, Maryland 20906, telephone 460-7243
recording secretary
Ila J. Fehrer, 110 West Federal Street, Snow Hill, Maryland 21863, telephone 632-2640
treasurer
Neal Fitzpatrick, 11822 Kitt Place, Potomac, Maryland 20854, telephone 299-8494

MARYLAND CONSERVATION COUNCIL

12 July 1985

Summary of Testimony
on
S.1208

Committee on Energy and Natural Resources
U.S.Senate

This bill should be rejected for the following reasons, among others:

1. The National Park Service has a better record for managing parkland and protecting the environment than any agency of Maryland or its subdivisions.

2. Contrary to its stated purpose, S.1208 is not needed "for park and waterfront recreation purposes"; rather, it is a give-away of federal parkland for the benefit of a commercial, for-profit real estate developement.

3. The developement is in blatant violation of the spirit of legislation to clean up the Chesapeake Bay enacted by Maryland and neighboring states, with federal support, only last year. It fails to be an actual violation only because final rules regarding protection of "critical areas" -- land within 1000 feet of the shore of a major tributary -- have not yet taken effect.

4. Restrictions in the associated "Memorandum of Understanding" are inadequate, vague, and unenforceable.

Herbert B Rosenstock

Herbert B. Rosenstock
5715 Janice Lane
Temple Hills, Maryland,
20748

Senator WALLOP. Thank you, Mr. Rosenstock.

Mr. Vance.

STATEMENT OF JAMES F. VANCE, CAMP SPRINGS, MD

Mr. VANCE. Thank you, Mr. Chairman. My name is James Vance, and I live in Oxon Hill. I practice law in Camp Springs, MD, about 12 miles easterly. I represent Mr. James Duggan, The Friends of Oxon Hill, and the overwhelming vast majority of the civic associations in Prince Georges County.

The Civic Federation of the County Vice President has expressed strong support for my position. I have represented, along with Mr. Garber, my associate, these people in opposition to the rezoning of about 250 acres of this property south of the Federal parcel and in opposition to the use without restriction of the Smoot Bay itself, about another 250 acres of State-owned wetlands.

This case, as you were told earlier, is still in the highest court of the State. The writ of certiorari was requested several months ago. We expect to have it granted by the end of September. This litigation directly affects the Federal parcel about which 1208 was introduced.

The 55-acre parcel owned by the Federal taxpayers is now assigned to the Department of Interior Park Service and thus it is unnecessary to transfer it in order to make it a public park. The JTL Enterprises, Ltd., which has acquired the land along the Potomac shoreline at Smoot Bay needs no action by the Federal Government to enable it to create a waterfront park along a distance of over a mile of the shoreline of the Potomac that is south of the Capital Beltway, and it owns and has control over property to the east and to the west of the Federal parcel.

My clients have no objection to a waterfront park. What we do object to is the incompatible commercial, industrial, and multifamily residential development that is planned for and is expected to be constructed if these gentlemen are successful in the Maryland courts. And there are other cases following which would also have a direct impact on this. No incompatible development is what this Senate bill is all about.

The Capital Park and Planning Commission of Maryland doesn't really want to create a waterfront park for public use at Smoot Bay, in my humble opinion, and I have followed this for 6 years. JTL Enterprises plans to use its own funds to create a marina for about 1,000 boats up to 70 feet in length in Smoot Bay.

What this bill is actually seeking is to have the Federal Government transfer its 55-acre parcel, worth perhaps $4 million to $5 million, to the Maryland agency, where it will then be used to grant such uses, such amenities as it sees fit.

I apprehend that the Maryland agency wants the Federal parcel in order to give access to JTL Enterprises across the Federal parcel from the north. At this time there's no impediment for access from the south, if all JTL wants along the Potomac shoreline is a waterfront park for public use. We apprehend that what JTL Enterprises actually desires is to create this mammoth development of commercial, industrial, and multifamily uses within this neighborhood that will be incompatible with the homes, as have been described to you, worth perhaps $200,000—$75,000 to $200,000 average, and to overburden this entire area with such development.

The proponents of Senate bill 1208 have the temerity to ask the members of this committee to give them a blank check and approve a memorandum of understanding between JTL and the National Capital Planning Commission regarding the proposed development. The specific language which is found in the Federal Register and found on Senate 7064 page of the Congressional Record in the Senate, allows this memorandum to be modified by their mutual agreement, and where are the congressional committees or anybody else in the Federal Government going to come in on the picture?

We ask this committee why is it interested in aiding a developer to override the intense opposition of homeowners and residents of a neighborhood in Prince Georges County and throughout the country. Those citizens who are active in civic matters recognize this for what it is. We've had this type of experience in Prince Georges County for many years. I have great respect for Mr. Lewis. I know he is a good developer, but he is interested in a financial gain and this would come out of the community's welfare and the county's welfare.

Senator WALLOP. Mr. Vance, may I ask you please in the interest of time, please, we are very pressed for time. We've given you your 5 minutes. Could you summarize in a sentence, please?

Mr. VANCE. Yes, sir.

Senator WALLOP. Your whole statement will be in the record.

Mr. VANCE. May I use the photograph? It will save me some time. The State of Maryland, with the Federal Highway Department Federal Transportation, is now in the process of coming across the beltway on this Anacostia Freeway and across here and over here on an elongated S-curve to connect up the Anacostic Freeway with this road down Indian Head to the propellant plant for the Navy.

This Federal parcel is essential for that purpose. What are we doing? Are we coordinating what is being done? I suggest this needs direct attention.

Senator WALLOP. Mr. Vance, regardless of this development, the Federal Government, as I understand it, is providing the Maryland Highway Department with that access, which is unrelated to this. It can have a relation, it can have no relation. In either instance, whichever way it goes, that is going to take place, as I understand it.

Mr. VANCE. It is, yes, sir.

[The prepared statement of Mr. Vance follows:]

James F. Vance
ATTORNEY AT LAW

4700 AUTH PLACE, SUITE LL 4
CAMP SPRINGS, MARYLAND 20746
(301) 423-3666

July 5, 1985

HON. CHAIRMAN AND MEMBERS OF THE SENATE
OF THE SUBCOMMITTEE PUBLIC LANDS AND RESERVED
WATER -- OF THE SENATE COMMITTEE ON ENERGY
AND NATURAL RESOURCES

RE: S. 1208

My name is James F. Vance and I live at 300 Careybrook Lane in Oxon Hill, Maryland 20745. My office is at 4700 Auth Place in Camp Springs, Maryland 20746. I represent James Duggan, a non-profit civic organization, Friends of Oxon Hill Association, Inc.and several scores of citizens and property owners in Prince George's County, Maryland and elsewhere. On behalf of my clients and myself, I respectfully request that you deny favorable action on Senate Bill 1208, 99th Congress, 1st Session.

My clients and those of my associate counsel, Hayden S. Garber, Esquire, opposed the zoning action of the Prince George's County officials initially known as Bay of the Americas, Inc. The case is now on appeal in the Maryland courts. A petition for writ of certiorari is now pending before the Maryland Court of Appeals, and it is expected to grant that writ during the month of September 1985.*

This litigation directly affects the federal parcel about which S. 1208 was introduced. This 55-acre parcel owned by the federal taxpayers is now assigned to the Department of the Interior and comes under the jurisdiction of the National Park Service. Thus, it is a park now and it is completely unnecessary to have it transferred to a Maryland agency in order to have it "put to a constructive use" as a waterfront park for public use.

The JTL Enterprises, Ltd. which has acquired the land along the Potomac River shoreline at Smoot Bay needs no action by the federal government to enable it to create such a waterfront park along a distance of over a mile of river shoreline at Smoot Bay and south of the federal parcel. My clients and I have no objection to such a waterfront park. What we do object to is the incompatible commercial, industrial and multi-family residential development potential in this neighborhood.

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* Petition No. 187 in the Court of Appeals of Maryland

This incompatible development is what Senate Bill 1208 is all about. The Maryland-National Capital Park and Planning Commission does not really want to create a waterfront park for public use at Smoot Bay. JTL Enterprises, Ltd. PLANS to use its own funds to create a marina for about 1,000 boats up to 70' in length, in Smoot Bay. What this bill is actually seeking is to have the federal government transfer its 55± acre parcel, worth perhaps four to five million dollars, to the Maryland agency.

I apprehend that the Maryland agency wants the federal parcel in order to give access to JTL Enterprises across the federal parcel, from the north. At this time, there is no impediment for access from the south if all JTL wants along the Potomac shoreline is a waterfront park for public use.

We apprehend that what JTL Enterprises actually desires is to create a mammouth development of commercial, industrial and multi-family uses within this neighborhood that will be incompatible with the single-family homes of an average value of perhaps $75,000 to $200,000 in the neighborhood. Our homes would be overpowered by such a massive development on 250 acres of suburban residential land, plus 250 acres of submerged wetlands belonging to the State of Maryland.

Development proposed by Bay of the Americas has been acquired by JTL Enterprises, and we cannot but expect JTL to follow through, if it can. We and the members of this Committee cannot but expect this compliant Maryland agency to follow through as developer agent, if it can.

The proponents of Senate Bill 1208 have the timerity to askthe Members of this Committee to give them a blank check and approve a Memorandum of Understanding between JTL and the National Capital Planning Commission regarding the proposed development. The specific language, as found on page S 7064* of the Congressional Record--Senate, reads as follows:

> "This agreement may be modified at any time by the mutual agreement of NCPC and James T. Lewis Capital Enterprises, Ltd. regarding aspects of the development which serve to carry out the general intent of this agreement and which would improve the attractiveness of the development."

We ask this Committee: Why is it interested in aiding a developer override the intense opposition of homeowners and residents of a neighborhood in Prince George's County, Maryland? Why should this Honorable Committee of the Senate concern itself with transferring 55 acres of land which is within the immediate year required for constructing a multilane road to connect up Route I-295 (Anacostia Freeway south from the South Capital Street Bridge over the Anacostia River to the Capital Beltway, I-95) with Indiannead Highway (Md. 210). The Maryland State Highway Administration is presently embarked on this project to complete the cross over of 295 across the Beltway, and proceed easterly about a mile to Indianhead Highway.

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* Of May 23, 1985

We would like to associate ourselves with the letter of Mr. James G. McMichael of Hyattsville Maryland to this Committee regarding this bill. His letter is dated June 18, 1985.

Finally, but not least important, the proposed development in the neighborhood of the federal parcel, would by its very nature violate the Chesapeake Bay Critical Area Protection Act (Maryland Natural Resources Art.,Subsec. 8-1801 thru 8-1816, Md. Code, Ann.) and the Policies, Criteria and Regulations now proposed by the Chesapeake Bay Critical Areas Commission. A substantial portion of the area proposed for development by JTL Enterprises, Ltd. comes within the jurisdiction of that Commission.

As this Honorable Subcommittee Members know, this nation has embarked upon this tremendous and ambitious program for cleaning up and protecting the Chesapeake Bay and its environmental quality. The funds to be devoted to that set of goals stagger our imagination! We suggest that you Subcommittee Members would be distressed to fully understand the implications of what you are being asked to do.

Let me assure you that my clients and I will fully cooperate with your staff and members should you wish more information.

Respectfully submitted,

James F. Vance

James F. Vance, attorney for
James Duggan et al.

Senator **WALLOP**. Thank you very much. Mrs. Anderson.

STATEMENT OF CARMEN E. ANDERSON, BRANDYWINE, MD

Ms. **ANDERSON**. Senator Wallop, from the course of the discussion here this morning I almost feel like this is a cut-and-dried situation. I am hoping that your ears and the ears of your committee are still open to the possibility that this bill shouldn't pass, and the reason for that is because we come to you literally as a court of last resort to try to cut through what is a monumental hypocrisy and a break in a chain of what I perceive will be wasted past and future Federal spending.

The hypocrisy, of course, is the pseudo concern we're being fed daily by politicians at all levels over the cleanup of the Chesapeake Bay and the Potomac River. This bill will allow to proceed, as you have had described to you, depending on court decisions, massive development on the shoreline on the River, upon which millions of dollars have already been spent to improve water quality that was brought about by just this very sort of thing.

If such concerns over the Chesapeake Bay were genuine, we wouldn't be here today, because nobody in their right mind would have ever approved development of this magnitude right on the Potomac River and there would be no 1208.

Guilded as the economic jewel of Prince Georges County, this project that will be caused to happen by passage of this bill will place the highest density zoning anywhere in the metropolitan area, not only on the shoreline of the River but hanging out over it. nor will Prince Georges County accrue that much tax benefit from the project because those new tax revenues that are raised from this will be put into a special tax fund to be used for the benefit of the developer rather than accruing to Prince George's County as a whole.

We are to believe that this multifold increase in human activity is going to have no detrimental effect on the Potomac Bay—Potomac River or the Bay, scenic appearances from waterside, or to say nothing of the peace and quiet of the residential neighborhood in which it's about to occur.

I hear that the President's kicked in several million dollars toward the cleanup of the Chespeake Bay. The State of Maryland has contributed about $38 million. I expect Virginia, Pennsylvania, New York and others will be expected to do the same. I wonder how many of them are going to throw good money after bad while at the same time local officials are granting one project after another of this magnitude. And so the hypocrisy goes on.

All I ask is that the taxpayers get a square deal. If you're going to use Federal land with taxpayers money to promote this kind of project, then let's admit where our priorities are and stop spending my money to clean up the Bay.

There is another matter of Federal dollars being spent for highway improvements in this area. The traffic at the intersection nearest this project, Oxon Hill Road/Indian Head Highway, was recognized by the planning staff as operating at the lowest level of service rating that exists in Prince George's County. That means a standstill during rush hour. With some help from the President's 5-cent gas tax, we're hoping to see a little relief from that, relief that's been in the planning for over 15 years.

But the estimated 10,000 cars trips that will be dropped into this area, driving across S. 1208, will more than undermine any benefits from those Federal and State dollars and all this is within a mile of the famous Wilson Bridge troll, who was busy in operation this morning as we came around.

The Memorandum of Understanding with the National Capital Planning Commission is just another example of how one agency of Government after another has operated to grease the skids for this developer. We certainly hope we're seeing the end of it here today. I see nothing in the agreement whatsoever that applies any meaningful constraints; rather, it incorporates some of the worst schemes that we could have imagined, especially the filling process.

Understand, Senator Wallop, that the County Council of Prince Georges rezoned this property with the full knowledge that this access was not open and available to this developer. They, rather, ignored the fact and arrogantly assumed that you Senators, just as every other official of Government who has been influenced by this developer, would jump through the hoop when the time came—and the time looks like it's now.

So we're not asking you to act in place of or over the heads of the local zoning authority. Though it may appear we're placing you as an obstacle to this wonderful project, I implore you and your other committee members to remember that neither the applicant, the county, Maryland, nor the National Capital Planning Commission had any right whatsoever to assume that Federal parkland would be put at their disposal by your actions, and we simply ask you to do nothing.

I would like to point out in response to a couple of the other things that have been raised here today with regard to employment, Prince Georges County as of a year ago, when I last had occasion to check the statistics, had the lowest unemployment rate anywhere in the State of Maryland, if not the Nation as a whole. It was somewhere on the order of 3.7, and my feeling is that if funds are to be spent job training would go a lot further toward creating employment in Prince Georges County.

And I think you should recognize some coincidence in the fact that there has been no attempt on the part of the Park and Planning Commission to develop this parcel as a park until the needs of this developer surfaced here about a year or two ago. There's no doubt that this proposal might be very nice if it was placed in an area that was run-down, burned-out, as the Inner Harbor was in Baltimore, but it certainly isn't in a proper place on the Potomac River or in a quiet residential neighborhood.

And we respectfully request that this committee keep open the option of rejecting this bill and being a party to the use of Federal money to subsidize a developer both for highway funds and water quality cleanup. I thank you for your time.

[The prepared statement of Ms. Anderson follows:]

14116 Duckett Road
Brandywine, Md. 20613
July 10, 1985

United States Senate
Committee on Energy and Natural Resources
Public Lands Subcommittee
Dirksen Senate Office Building, Rm. 308
Washington, D.C. 20510

Re: S.1208

Hearing: July 12, 1985

Dear Senators,

We have come to you literally as a court of last resort, hoping to cut through the hypocrisy and break a chain of federal spending that I perceive could result if S.1208 is passed. I do not come before you dripping with figures, statistics, but rather a simple, common sense approach to tell you what this bill is really all about. That is, how your action would serve to benefit the personal wealth of a very few individuals while operating to the detriment of the public at large.

The hypocrisy, of course is the pseudo concern we are being fed daily by politicians at all levels over clean-up of the Chesapeake Bay. This bill will allow to proceed[1] massive development on the shoreline of the Potomac River upon which millions of dollars have been spent to improve water quality. If such concerns were genuine, we wouldn't be here because no one in their right mind would have approved a project the magnitude of Bay of the Americas RIGHT ON THE POTOMAC RIVER. And then there would be no S.1208. Guilded as the economic "jewel" of Prince George's County, the project you will cause to happen with passage of this bill is the placement of the highest density zoning anywhere in the Metropolitan area[2] not only on the shore but hanging out over the Potomac River. But we are to believe that this multifold increase in human activity will have no detrimental effect on shoreline wildlife, Potomac and Bay water quality, scenic appearances from the waterside view and the surroundings of the Oxon Hill Manor, to say nothing of the peace and quiet of a single family neighborhood. Amazing!

I hear on the TV that the President has kicked in several million dollars toward cleaning up the Chesapeake Bay[3]. The State of Maryland has budgeted some $38 million new dollars. Who else? Virginia? Pennsylvania? New York? Who else will throw good money after bad? How many other big construction pjojects are getting the nod from local officials dealing in hypocrisy? All I ask is that the taxpayers get a square deal. If we are going to use Federal land, purchased with our money to promote such projects then let us admit where our priorities are and stop spending my money to "clean upthe Bay."

Then there is the matter of Federal dollars being spent for highway improvements in this area. The traffic at the intersection of Oxon Hill Road, Indian Head Highway and the Beltway was recognized in the staff analysis on the rezoning as operating at the lowest "Level of Service' in the County. That means a standstill during rush hour. This is the existing condition today. With the help of Ronnie's 5¢ gas tax, some perceived relief is now under construction that has been over 15 years in the planning. The estimated 10,000 new car trips a day that will drive across S.1208 will enter this same circulation area and will more than undermine any benefits from these Federal and State highway dollars. This is within a mile of the famous Wilson Bridge troll.

page 2

The Memorandum of Understanding with the National Capital Planning Commission is but one more example of how one agency of government after another has operated to grease the skids for this developer. I see nothing whatsoever in this agreement that applies any meaningful constraints. Rather, it incorporates and promotes schemes for disruption of the shoreline that fulfill our worst expectations.

The Prince George's County Council rezoned this property with full knowledge that this access was not open and available to this applicant They rather arrogantly ignored the fact and assumed that you Senators, just as every other government official who has been pressured by the applicant, would jump through the hoop when the time came. We are not asking you to act in place of, or over the heads of the local zoning authority. If it appears that we are potitioning you as an obstacle to this wonderful project, I implore you to remember that neither the applicant, the county, the Maryland nor the National Capital Planning Commission had any right to assume that Federal parkland would be put at their disposal by your action. We simply ask, therefore, that you do nothing.

There is no doubt that the proposed development has a great appeal as a place for the "beautiful people" to meet and spend their money in the boutique atmosphere of modern day concrete palaces. If it were being built to restore one run down, burned out, environmental "no man's land," it would even have merit. But not in a quiet neighborhood on the Potomac River.

We therefore respectfully request that this committee reject S.1208 and defuse the Memorandum of Understanding in the process. We look to this Subcommittee not to be a party to the use of Federal highway money to subsidize this developer and to the waste of Federal funds for river and Bay clean-up.

Sincerely,

Carmen E Anderson

Carmen E. Anderson

[1] Pending court action

[2] See attachment: Staff critique of then proposed MXT zoning ordinance.

Form 70 11 78

MEMO

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

September 11, 1981

MEMORANDUM

TO: Ruth A. Senes, Legislative Liaison

FROM: Harry R. Neff, Chief, Area Master Plans Division

SUBJECT: CB-147-1981 (Proposed Mixed Use-Transportation Oriented Zones)

The Comprehensive Design Zones are a step in the right direction to encourage and improve development in Prince George's County. They do not, however, cover a number of situations. Thus, the need for other zones encouraging mixed-used development. Councilman Amonett stated that there is a need for a mixed-used zone to properly develop a very critically-located tract in Subregion VII. Some time ago I inquired if the drafting of CB-147 was taking this into consideration. The reply was negative. For the authors' information, the following is from CR-57-1981. (while there may be some changes in the resolution before it is adopted, this item is not expected to change). "26. The Gudelsky/Lerner property on Oxon Hill Road adjacent to the Beltway and between the Indian Head Highway and St. Barnabas Road interchanges shall be shown in a striped pattern indicating a mixed-use center, which may include residential development, employment (primarily offices, research and development), convention facilities, hotels/motels, restaurants, and limited retail uses. The developer shall be asked to work with the County's Travel Promotion Council and the State to incorporate a visitor's center as an integral part of the development." Before this bill moves to the point of no return, I suggest that the authors' determine if the present bill can be modified to implement this proposal from the Subregion VII Plan.

A very disturbing feature of this bill is that it implies that every major intersection or interchange is an appropriate place for intensive development. Some are. Many are not. We have been fighting the zoning attorneys on this issue for years, and we will continue to fight them when their proposals are not in the appropriate locations. To improve development in this County, we should be concentrating it in appropriate places that are deterined through the General Plan and area master plans. By eliminating the requirement of conformance with a master plan, as is required for a CDZ, this bill opens too many areas for scattered development. A plan cannot foresee all future possibilities. Thus, a case can be made for not requiring total conformance with an approved master plan. In such a situation, the applicant should be required to conclusively demonstrate that the project will be of exceptional economic benefit to the County and be of exceptionally high quality in terms of architecture and site planning. Additionally, and this is from the CDZ Ordinance "Assure entire compatibility of proposed land uses with surrounding land uses and public services so as to promote health, safety and welfare of the present and future inhabitants of the Regional District." This language would be preferable to that in lines 26 through 29 on page 4. On page 3, line 31, it is stated that one of the purposes is to create a distinctive visual character. There is not necessarily a direct correlation between distinctive and exceptional or even good. Fast-food establishment architecture is distinctive, but it is poor.

To require that the property only be in the vicinity of a major intersection or interchange or major transit stop is a give away. This sole criterion is far from justification for intensive development. Several years ago we started requiring that the applicant include a statement of justification in a rezoning application. Some of these statements are ludicrous. To overcome this, this bill should include some stringent guidelines regarding the contents of justification statements.

The bill requires that the subject property be within the vicinity of a major intersection or interchange or transit stop or station. How far away can you be and still be within the vicinity? This needs to be specified or there is a gaping hole for the land speculators to crawl through. Being within the vicinity of any of these does not automatically indicate adequate vehicular access.

What is a major transit stop or station? By station does this refer to Metro rail station and stop mean Metro bus stop? Does a major stop exist unless intensive devleopment already exists? For example, a number of bus lines converge at Prince George's Plaza.

✓ As used on page 5, lines 17 through 19, what is an enclosed structure? A structure within a structure? Does this mean that the use must be within a larger structure as opposed to the typical freestanding service station?

What are transportation stations, stops or depots as used on page 7, line 12? Do they include railroad yards and freight stations and trucking and motor freight stations? These are necessary uses, but they are rather unattractive. Therefore, they should not be within view from our roadways.

/Should item (6) on page 7, line 18 and item (7) on page 8, line 16 be changed to (7) and (8), respectively?

On pages 7 and 8, how were the permitted employment uses determined? Why TV's and not refrigerators? The current I-1 and I-2 zones have a number of examples that reflect a lack of understanding or knowledge about the manufacture of different types of products.

On page 8, line 17 it states that home occupations are a permitted use except in a multifamily dwelling. Given the fact that this proposed zone is to encourage intensive development, should there be any types of dwellings other than multifamily?

How was the F.A.R. of eight as specified on page 10 derived? Are there any examples? In the Chevy Chase-Friendship Heights area, which is probably the most intensive area in the Regional District, the maximum average F.A.R. permitted in the approved plan, and being implemented is four in CBD-3--the most intensive zone. The maximum commercial F.A.R. in our CDZ ordinance for a M-A-C is 2.7. An F.A.R. of eight is staggering.

In the M-A-C the F.A.R. can increase from one to 2.7 -- a 170% increase if a number of things are done to greatly improve the ambience of the development. In the MXT Zone the F.A.R. can increase from 0.25 to eight. This is a 32-fold or 3200% increase. Although I have not made a precise comparison, it seems that much less is required in the MXT Zone to be given much more.

How were the bonuses on page 10, lines 16 and 31 derived? Are they appropriate? Are the open arcade dimensions on page 10, lines 26 and 27 the appropriate dimensions? Have the urban designers reviewed these and other features dealing with pedestrian spaces?

On page 11, lines 12 through 15 it states the enclosed pedestrian spaces shall be provided with at least three of a number of supposed amenities. I submit that overhead banners and pennants as opposed to fountains and works of art are not amenities. These spaces could look like a used-car lot with banners and pennants.

Why should the provisions of a theater and residential uses as specified on page 11 qualify for a bonus? There is nothing unusual about a theater. If the purpose of the zone is to have mixed-uses, why give a bonus if the builder is only meeting the main purpose?

The bonus provision for having a restaurant with outdoor seating as specified on pages 11 and 12 is too high. The building could contain a 100-seat indoor restaurant with only a few seats outdoors and qualify for the bonus.

The outdoor plaza section on page 12 is rather specific about the features that it should contain. Outdoor plazas are nice and the specificity is good. However, given the length of our summers and the humidity, why is the bonus for an outdoor plaza twice that of an indoor plaza? Also, an outdoor plaza is less expensive to construct. Back to specificity. There is nothing about providing shaded areas. I have seen some visually pleasing plazas that are not used in the summer because all of the seats are in the sun at noon time. Indoor plazas at times can be much nicer and

Senator **Wallop**. Ms. Anderson, thank you.

Let me suggest to you that you have a very strange way of trying to penetrate the mind of a Committee—by insulting it.

Ms. **Anderson**. I'm sorry if I did.

Senator **Wallop**. This whole process is designed to hear the testimony of witnesses, yours and others, and I have tried altering this in the hearing before it to accommodate a variety of views. I would point out to you that the two Senators from Maryland and the members of the Maryland House of Representatives are the sponsors of this bill. Am I supposed not to hear it?

Ms. **Anderson**. Well, I guess I'm a little new at this.

Senator **Wallop**. I'm sorry, but I have a great resentment to the kind of accusation, you come up here and say we're going to jump through hoops. If I'm going to jump through a hoop, I'm not going to spend all bloody morning sitting here listening to people. I came here with my mind open and you're doing your very best to shut it.

There is a logic involved in all of these things, and the process is to try to accommodate a variety of public and private interests that always are involved in the decisionmaking process before Congress. Sometimes it results in no action; sometimes it results in action; sometimes it results in actions which have been modified by this process. And that's what our purpose is here this morning.

And I thoroughly resent being told that I am jumping through a hoop by spending my time sitting here listening to that.

Ms. **Anderson**. Well, I apologize if I have offended you and I hope that that will not slant your opinion of what others here have said, but please understand, Senator, that all of us have been through a long, grueling ordeal and that we have been rather treated badly.

Senator **Wallop**. This is part of an ordeal that all of us go through in a thing called democracy, and it is our privilege to be able to sit here and insult each other if we want to, but the better way of proceeding is to try to penetrate each other's minds with logic—and that's what I would hope would happen.

Mr. Bereskin.

STATEMENT OF BEN BERESKIN, BOWIE, MD

Mr. **Bereskin**. Thank you, Mr. Chairman. My name is Ben Bereskin. I am a homeowner and taxpayer in Prince Georges County. I am representing myself as a private citizen because I am alarmed about what is shaping up as another manmade ecological disaster as authorized by S. 1208.

I refer, of course, to the planned ecological destruction of Smoot Bay and environs, with serious effects on the Potomac River and even on the Chesapeake Bay itself. The so-called memorandum of understanding would allow the massive filling of Smoot Bay up to 750 feet from the present low-water shoreline. That's the length of 2½ football fields.

And the fill in parts of the Bay would cover up to 25 acres. That translates into about the size of 24 football fields—no small amount, wouldn't you agree? And where would this massive amount of fill come from? That's simple. Part would come from the rest of the bay, dredged to allow power boats up to 70 feet long to enter and dock at the planned 1,000-slip marina. The rest of the fill would come from bulldozing the onshore bluffs that rise up to 50 feet above the water.

These bluffs would be leveled to make room for a four-lane highway needed to provide access to the Bay. Can you imagine the siltation and pollution of the bay and Potomac River that would be created by these processes?

What's more, the memorandum states that further destructive practices could be agreed to if the stated activities are insufficient to get the job done. Evidently the sky is the limit. Now what do you suppose dredging the Bay up to a depth of 10 feet or more will do to the slowly improving habitat being increasingly used by fin fish and other forms of marine life? That's simple. They would utterly destroy Smoot Bay and adjacent areas of the Potomac River as a spawning and feeding grounds and a safe haven for the marine life struggling to come back to the metropolitan Washington waterways.

Look at the striped bass or rockfish. It has been pushed to near extinction by overfishing, water pollution and destruction of habitat. We now have a moratorium on further harvest of the fish to see if it can recover. The same fate awaits many other species of marine life if man does't stop and change course in his actions.

Once destroyed, Smoot Bay will be lost forever. Once Smoot Bay is destroyed, can the Potomac River and Chesapeake Bay be protected and saved? What is at stake here is nothing less than man's future supply of food. In fact, if there is no place left for rockfish and other forms of marine life in the national environ, eventually there will be no place for man either.

Finally, this committee is being asked to buy a pig in a poke on the basis of S. 1208 and the so-called memorandum of understanding. Instead, what is needed is an environmental impact statement prepared by an independent service authorized by this committee on the basis of a detailed plan of construction as proposed by the developers, and not based on the nebulous memorandum of understanding that is now in front of us in S. 1208.

In the meantime, I urge this committee to show that it takes seriously its responsibility to protect the best long-term interests of the general public by tabling S. 1208. Thank you.

[The prepared statement of Mr. Bereskin follows:]

Statement on S. 1208 by Ben Bereskin
12308 Millstream Drive, Bowie, Md. 20715

I hereby urge rejection of S. 1208 by the Senate Subcommittee on Public Lands, Sen. Malcolm Wallop, Chairman, for the following main reasons:

(1) The site proposed by the M-NCPPC for a park and water recreation area would be located on the north shore of Smoot Bay, directly bordering on the I-95 Beltway. That strip of land is almost totally tree-covered and serves as a buffer for the Bay from the noise and air pollution of the Beltway as well as a safe haven for wildlife. Also, what chance would small-boats owners using that area have to enjoy the Bay when a 1,000-slip marina able to handle 100-foot power boats would be constructed next to that area on the north shore? The truth of the matter is that the offer by M-NCPPC to develop the north shore is just a ploy to get the National Park Service to transfer control of the 55-acre parcel to the M-NCPPC to allow access to the shore of Smoot Bay and the massive development planned there. Let's not bulldoze a 4-lane highway to Smoot Bay or to the north shore. Instead, I urge you to retain the entire north shore as an undisturbed natural habitat for wildlife and as a needed buffer from the Beltway by rejecting S. 1208.

(2)The supposed Memorandum of Understanding, if implemented, would result in the total destruction of the present delicate ecological balance of Smoot Bay. By allowing up to 750 feet of fill in the Bay, plus the massive dredging of much of the rest of the Bay to accommodate the 100-foot motor boats, the result would be catastrophic for various species of marine life now using Smoot Bay as a feeding area and as a safe haven. For example, the Striped Bass or Rockfish has been nearly pushed to extinction by overfishing and water pollution. It, along with other species of marine life, is desparately trying to make a comeback in the Potomac River in the Washington area. That effort would without a doubt be defeated by allowing the proposals by the developer to be implemented in Smoot Bay.

The questions before this Subcommittee can be simply stated, as follows: Are you going to sacrifice the life-supporting ecology of Smoot Bay and the Potomac River, destroy critical and favorable habitat for marine life, indeed our future food supplies, transform the present natural and distinguished Maryland approaches to our National Capital into a cluttered and cheapened man-made vista, create an intolerable traffic congestion in the area, and destroy the peace and quiet of adjacent neighborhoods in order to line the pockets of would-be developers and speculators, supported by certain ill-advised and ecologically misinformed public officials?

This Subcommittee can show that it takes seriously its responsibility to protect the best long-term interests of the general public by rejecting S. 1208.

Signed,
Ben Bereskin
Ben Bereskin

Supplemental Statement on S. 1208 by Ben Bereskin
12308 Millstream Drive, Bowie, Maryland 20715

I am a home owner and taxpayer in Prince George's County, representing myself as a private citizen. I am alarmed about what is shaping up as another man-made ecological disaster, this time authorized by S. 1208. I refer of course to the planned ecological destruction of Smoot Bay and vicinity, which will have serious effects on the Potomac River and even on the Chesapeake Bay.

The so-called Memorandom of Understanding, referred to in S. 1208, would allow the massive filling of Smoot Bay, up to 750 feet from the present low-water shoreline. That's the length of 2½ football fields. And the fill could cover up to 25 acres, which translates into about the size of 24 football fields. No small amount, wouldn't you agree?

And where would this massive amount of fill come from? That's simple. Part would come from the rest of Smoot Bay, dredged to allow power boats of up to 70 feet long to enter the Bay and dock at the planned 1,000-slip marina. The rest of the fill would come from bulldozing the on-shore bluffs that rise to 50 feet above the water level. These bluffs would have to be leveled to make room for a 4-lane highway needed to provide access to the Bay. It's not hard to imagine the siltation and pollution of the Bay and Potomac River that would be caused by these practices. What's more, the Memorandum states that further (destructive) practices could be agreed to if the stated activities are insufficient to get the job done! Evidently, the sky's the limit.

What do you suppose dredging Smoot Bay to a depth of 10 feet or more will do to the present slowly improving habitat being increasingly used by various species of fin fish and other forms of marine life in the area? That's simple. It would utterly destroy Smoot Bay and adjacent areas of the Potomac River as a spawning and feeding area and as a safe haven for the marine life struggling to come back to the Metropolitan Washington waterways. Look at the striped bass or rockfish. It has been pushed to near extinction by over-harvest, water pollution and loss of habitat. As a result we now have a moratorium on further harvest of rockfish, hopefully to allow it to recover. The same fate awaits many other species of marine life if man does not stop and change his activities.

Once destroyed, Smoot Bay will be lost forever, for all practical purposes. Once Smoot Bay is destroyed, can the Potomac River and Chesapeake Bay be protected? Then what chance will the rockfish and other marine life have in trying to come back ? Not much. What is at stake here is nothing less than man's own survival. If there is no place left for rockfish and other forms of marine life in the natural environment, eventually there will be no place left for man, either.

In conclusion, this Committee is being asked to buy a "pig in a poke" on the basis of S. 1208 and its so-called Memorandum of Understanding. Instead, what is needed is an environmental impact statement prepared by an independent service on the basis of a detailed plan of construction as proposed by the developers, and not on the basis of the nebulous S. 1208 and Memorandum of Understanding. In the meantime, I would urge this Committee to protect the best long-term interests of the general public by tabling, or better yet, by rejecting S. 1208.

Attached is a copy of a page of the Maryland Water Resources Administration Report on the Maryland Wetlands Act of 1970, as it should apply to Smoot Bay.

Respectfully submitted,

Ben Bereskin

Ben Bereskin

wra REPORTS

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Maryland Water Resources Administration

Summer 1985

In This Issue

WRA Reports is a quarterly newsletter containing articles on the policies and activities of the Maryland Water Resources Administration.

- Wetlands: Past, Present, Future
- Dam Safety Inspection Priorities
- Hydropower Inventory Update

WETLANDS: PAST, PRESENT, FUTURE

Harold M. Cassell, Chief of the Wetlands Division, presented a paper to the recent annual conference of state wetlands managers on *Maryland's Tidal Wetlands Protection Program: Past, Present and Future*. The article below is composed of excerpts from this paper and provides insight into the state of management and protection for Maryland's valuable tidal wetlands.

"In order to reflect that Maryland's public interest in tidal wetlands protection is a continuum of environmental consciousness, historical, present and future directions of Maryland's program are identified."

"*Program History*—After the Revolutionary War, the American common law system was faced with determining who had acquired the tidewater and submerged lands previously held by the Crown and lord proprietors. Chief Justice Taney determined that the people of each State had become sovereign and therefore held the absolute right to all their navigable waters and soils under them for their own common use. The sovereign interests being exercisable through the various state legislatures.

In the eighteenth and nineteenth centuries the Maryland General Assembly passed a series of laws authorizing riparian landowners to construct offshore improvements and gain title to accretions all of which culminated in a detailed riparian rights statute in 1862 (Power, 1970)."

"*Wetlands Act of 1970*—The Wetlands Act of 1970 pertains to tidal waters and wetlands within the sixteen (16) Maryland tidewater counties and Baltimore City. This comprehensive Act made the first substantive changes in rights granted and obligations imposed upon riparian owners in over a century. It repealed sections of the longstanding Act of 1862 which up to 1970 had been the well-spring of riparian rights.

Section 9-102 (Annotated Code of Maryland, Natural Resources Article 1983 Replacement Volume) declares concisely the public policy embodied in the Wetlands Act.

'In many areas of the State much of the wetlands have been lost or despoiled by unregulated dredging, dumping, filling, and like activities, and the remaining wetlands are in jeopardy of being lost or despoiled by these and other activities. The loss or despoliation will affect adversely, if not eliminate entirely, the value of the wetlands as a source of nutrient to finfish, crustacea, and shellfish of significant economic value; the loss or despoliation will destroy the wetlands as a habitat for plants and animals of significant economic value and eliminate or substantially reduce marine commerce, recreation, and aesthetic enjoyment; in most cases, the loss or despoliation will affect the natural ability of tidal wetlands to reduce flood damage and affect adversely the public health and welfare; the loss or despoliation will reduce substantially the capacity of the wetlands to absorb silt and result in increased silting of channel and harbor areas to the detriment of free navigation. It is therefore the public policy of the State, taking into account varying ecological, economic, developmental, recreational, and aesthetic values, to preserve the wetlands and prevent their despoliation and destruction.'

Senator WALLOP. Thank you, Mr. Bereskin.

The record for this hearing will remain open for 2 weeks beyond today.

The witnesses which had requested in advance to testify have; and the time limits and constraints upon the committee are now up. I regret that, but one can look at the clock and see that it is not I but the clock which is dictating all those things.

All testimony that people wish to submit in favor of modification or in opposition to this will be received by the committee.

The subcommittee stands adjourned.

[Whereupon, at 1:10 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

Olympia J. Snowe

OLYMPIA J. SNOWE, MC

TESTIMONY BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE CONSERVATION
JULY 12, 1985

Mr. Chairman, I wish to express my strong support for S. 720, legislation to establish a permanent boundary for Acadia National Park, introduced in the Senate by Senator Mitchell, and cosponsored by Senator Cohen. This legislation is identical to a bill I introduced along with Representative McKernan in the House as H.R 1865. Maine's Congressional delegation fully supports this legislation and the need finally to give Acadia a permanent boundary. I believe it is genuinely fair to the affected towns in Maine, and will protect the integrity of one of this nation's greatest national parks.

Acadia National Park is a source of pride to Maine. Acadia is also an important tourist attraction, and a great natural splendor to behold, which was the chief reason so many benefactors over the years donated additional lands to the park. Acadia's 38,000 acres come almost entirely from private donation. It is revealing to investigate how Acadia was formed: the Park started as a five thousand acre national monument in 1916. Over the next several decades, the Park was expanded through donations from the Rockefeller family and other donors who helped to put Acadia in the national spotlight.

For half-a-century, two forces have created an increasing need to give Acadia a real boundary: first, a recognition by the surrounding communities of the need to preserve their tax bases from further erosion due to unchecked park expansion; and second, the Park Service's recognition that the era of magnanimous land donations had come to an end. For the Park Service, an alternative had to be found to round-out the land holdings of the Park.

These forces are still at work in 1985. There are subtle and complex aspects of Acadia which this Subcommittee needs to recognize, including the interlocking relationship between Acadia and the surrounding towns, along with the importance of the towns to the Park and vice versa.

Acadia's lands are often described with expressions like "a grab-bag of land parcels" and "piecemeal." But there is a greater sense to the Park's proposed boundary composition than can be seen on a map. The proposed acquisitions and deletions in our legislation will help to complete the holdings of the Park, but also give the towns in this area a sense of security that has been so elusive for several decades. I am extremely pleased that this Congress has the chance to preserve the beauty of Acadia, and leave this park to our children and grandchildren as a natural source of pride in the environment.

I would like to address specifically several important provisions in this bill:

The acquisition of certain land parcels by the Park Service would be allowed through exchange, donation, or purchase, from a willing seller, whose family retains the right of use and occupancy of this property until the death of all of the heirs, or after a period of twenty-five years from the date of acquisition. Current Park lands outside the boundary, if not exchanged within five years, would be conveyed to the towns.

A newly-created Acadia National Park Advisory Commission would have the essential job of advising the Park Service on development and operation issues, land acquisition, conservation easements, and payments relating to the Park. The Commission would be composed of sixteen members -- three appointed by the Secretary of the Interior; three by the Governor; four representing the towns on Mt. Desert Island; three representing the Hancock County mainland towns of Gouldsboro, Winter Harbor, and Trenton; and three for the Island towns of Cranberry Isles, Swans Island, and Frenchboro.

Several years ago, following the 1979 mediated agreement between the Park and the towns, language was dropped which would have provided the Advisory Commission with veto authority over any Secretarial determination of incompatible use of certain Acadia lands. Instead, this bill provides specific criteria on what would constitute incompatible use for these lands.

Lands would hereby be protected by giving the Park Service eminent domain authority to acquire these parcels if they are undergoing -- or about to undergo -- development which is carefully defined in the bill as being incompatible. Subsequent development on these lands will be strictly limited to the following: construction of a single-family home on unimproved property; reconstruction of a building damaged by fire or other natural causes; additions which are considered incidental and which don't exceed 50 percent of the total square footage of the existing building or cause the total size of the building to exceed 2,500 square feet; and construction of roads, sewers and other reasonable support facilities. Subdivision of property and changes to nonresidential or commercial use would be prohibited.

This bill would allow conservation easements to be acquired or donated from a willing seller on private lands in and outside the park. The land in question must be of important scenic, ecological, or historical quality; shorefront property; or undeveloped islands in their entirety. The purpose of these easements is to provide added protection where desired for the natural integrity of the park. No easement can be entered into without first consulting with the affected town and the Advisory Commission.

Of particular concern in this bill is exclusion of the Schooner Head and High Seas properties. This legislation recognizes the historical importance of Schooner Head and High Seas to the Park as well as the rights of their current property owners. The compromise reached in this bill states that the properties can revert to the Park if and when they are eventually sold to the Park Service on a willing-seller basis. After that, the properties would be included within the Park boundary. The Park would retain eminent domain authority over these parcels to condemn any conservation easement if it were being developed in a manner deemed to be incompatible as outlined in the bill. This, I believe, represents a reasonable approach and a necessary compromise.

Important in resolving the boundary question for Acadia is a provision included in this bill of a one-time payment of $2 million to the towns, to be divided in proportion to the quantity of park lands that fall within each of the seven towns' borders. These funds would be used by the towns to help pay for fire protection, solid waste management, and road improvements. The towns would continue to receive annual Payments-In-Lieu-of-Taxes (PILT) of 75 cents per acre from the federal government for Park lands within community borders. The reason for this one-time payment is simple: park lands are tax-exempt. Since towns rely heavily on property taxes to fund essential community services, the loss of major portions of prime real estate to the Park would present an enormous financial strain. Since Acadia was essentially developed "backwards" without a boundary from the beginning, these communities feel that the PILT payments alone are insufficient to supplant the diminished tax bases under this legislation. In many respects, this provision to provide a one-time federal payment to the towns is the most important part of this effort to establish a boundary for Acadia which has evolved over many years.

The provisions in this legislation which I have mentioned form the basis of an equitable solution for Acadia, and one which I think best meets the interests of the entire area. There is no dispute that these issues are complex and the stakes are large, nor that the development of this compromise has been so lengthy and difficult. There may be provisions which will require modifications, but I am confident that the plan which has been developed and which Maine's congressional delegation is now submitting is reasonable and responsible legislation.

For all of the future generations of out-of-state visitors, for all of the citizens of Maine, for their families, for their communities who will directly or indirectly benefit from a congressionally-mandated boundary, I urge the Subcommittee to give favorable consideration to S. 720. With a permanent boundary, Acadia will endure as one of the most remarkable land areas in the United States, and as an important natural resource which deserves our careful preservation.

112 Hollett St., Box 73
North Scituate, Mass. 02060
July 6, 1985

Sen. Malcolm Wallop, Chairman
Senate Sub-Committee on Public Lands,
Reserved Water and Resource Conservation
Washington, D.C.

Dear Sir:

My family is concerned that the wording of Senate Bill 720 concerning boundaries for Acadia National Park may be changed to exclude the phrase "willing seller" as reported in the Ellsworth Maine newspaper "The Ellsworth American" on June 27, 1985. We ask you to retain the wording of the bill as written on March 20 (legislative day Feb. 18) 1985.

Enclosed is a copy of a letter from Jack E. Stark, regional director of the National Park Service, North Atlantic Region. You will note that paragraph 3 of the letter assures "You and your family may continue to use this land for as long as you so desire." Members of my family use the land for summer camping, a use that is compatible with park purposes. There is one small cabin on the ten-acre parcel located near Long Pond on the western section of Mt. Desert Island. No other building or development is planned nor will ever be according to park restrictions with which we are in complete agreement.

The land is the one remaining parcel of several hundred acres once owned by my family who were coastal traders, farmers and timbermen. They were among the first settlers of Mt. Desert Island. Unfortunately the depression necessitated mortgaging the land along the shore, and eventually all mortgages were foreclosed. The ten-acre parcel was retained for camping. At the time (1935) the acreage was considered worthless except for its beauty, and my grandfather, father, myself and now my children enjoy the few weeks we spend each summer in the one small area that remains of their heritage. Please allow us to continue to do so.

Very truly yours,

Melvin A. Atherton
Melvin A. Therton

Melvin T. Atherton
Melvin T. Atherton

Janet Atherton Stuart
Janet Atherton Stuart

Paula Atherton Gnibus
Paula Atherton Gnibus

Constance Joy Atherton
Constance Joy Atherton

Jane H. Atherton
Jane H. Atherton

P.S. This is intended to be submitted as written testimony at your hearing to be held July 12, 1985.

United States Department of the Interior
NATIONAL PARK SERVICE
NORTH ATLANTIC REGION
150 CAUSEWAY STREET
BOSTON, MA. 02114

IN REPLY REFER TO
D 18 NAR(PP)

December 13, 1976

Mr. Melvin A. Atherton
112 Hollett Street
North Scituate, MA 02060

Dear Mr. Atherton:

Thank you for your letter concerning Acadia National Park, and our apologies for the tardy reply. As indicated in the draft Master Plan, under proposed new legislation your land within the fee perimeter of the park could remain in your ownership as long as the present use of this land is not changed. If you desire to sell the land, the Park Service is willing to buy the land at appraised fair market value.

If the cabin you mention was constructed prior to the cut-off date established by Congress at the time legislation is passed, your land will not be subject to condemnation. The cut-off date is established in these cases to preclude development of property during the period after announcement of plans and prior to passage of legislation. You and your family may continue to use this land for as long as you so desire.

I hope this answers your question about the Acadia Plan.

Sincerely yours,

Jack E. Stark

Jack E. Stark
Regional Director

Oak Hill
Mount Desert, Maine
04660

July 12, 1985

Senate Subcommittee on Public Lands,
Reserved Water, and Resource Conservation
United States Senate
Washington, D.C. 20510

Dear Members:

As your Subcommittee considers the proposed legislation, S. 720, to establish a boundary for Acadia National Park, I trust that you will never be deterred from thinking positively about this beautiful park. Acadia is a magnificent resource of national renown, a credit to the State of Maine, the communities of Mount Desert Island and vicinity, and a triumph of the philanthropic citizen action which protected it.

The long debates over Acadia's appropriate extent too often have seemed to imply that the park is some federal monster sucking life blood from the towns in which it is situated. Local critics often seem loath to give Acadia its due as a reservation that has given the towns here enduring beautiful environs, that has saved them from serious commercial blight, and that has drawn millions of visitors with money to spend among local enterprises. We all must start thinking of ways to make Acadia an even better park for public benefit in ways that will not harm the local economy. A handsome, adequate park, protecting the best of the Mount Desert Island environment, will mean a handsome, economically healthy local community as well as a great national asset.

When a boundary has been decided upon, give the National Park Service the tools to protect that parkland to the very best of its ability. Give it the authority to stop whatever harmful changes or developments that may be attempted within that park perimeter. As now drafted, S.720 would leave the Park Service powerless to halt adverse uses on 150 out of the 178 parcels of private land proposed for addition to the park.

Although planning for Acadia has been going on for a long time, it has had shortcomings. There are many areas here meriting special protection that are not in the current proposal and which have not been brought to Congressional attention. Although conservation easements can accomplish much, some lands may need further protection or be available for public use. There should be a procedure for adding to the park where there is a clear conservation or public use need. Whatever boundary is set now, there needs to be

Oak Hill
Mount Desert, Maine
04660

a study, with a specific report date, of what else may need park status on Mount Desert Island and its environs. Too many outstanding scenic and recreational resources are at stake here to call any boundary "permanent" at this time.

There is also urgent need for carrying capacity, transportation, and economic studies here. The route to Acadia is dead-end, and the island and park are small. More and more people and vehicles cannot crowd on here without dire consequences, nor is prosperity dependent on overdevelopment.

Acadia National Park has been given to the Nation, parcel by parcel, by concerned, philanthropic private citizens who wanted to preserve the scenes they loved and to share them with fellow Americans. It would seem a shame now to waive away in park legislation this generous spirit and private concern for the public good. Perhaps the legislation you are considering can honor this philanthropic conservation instinct by allowing it to continue for lands meeting park criteria. There would seem to be ways of mitigating town tax losses, such as donating to a town trust fund.

With thanks for your careful attention to this important piece of park legislation, I am

Yours most sincerely,

John M. Kauffmann

John M. Kauffmann

1985 JUL -8 PM 12: 54

July 5, 1985

81 Glades Road, Box 196 B
Minot, MA 02055

Senate Subcommittee on Public Lands, Reserved Water and Resource Conservation
United States Senate
Washington, DC 20510

RE: S 720
Acadia National Park Boundary Act of 1985

Dear Senator Wallop:

Attached please find written testimony which we would like to be submitted for the hearing record concerning S. 720, the Acadia National Park Boundary Act of 1985. Thank you.

Sincerely,

Melvin T. Atherton

Constance L. Howe

Constance L. Howe
(Mrs. Melvin T. Atherton)

WRITTEN TESTIMONY

S. 720

We currently hold title to nonFederal property located within the boundary of Acadia National Park and we would like to express our support for S. 720, the Acadia National Park Boundary Act of 1985. We feel that this legislation provides a fair and reasonable solution to a longstanding problem.

Our family has owned this property since the 1830's. We use the land for family camping and are appreciative of the natural beauty of the area. We feel that this usage is compatible with the purpose of the Park. As a family, we enjoy the solitude and serenity of our campsite. We walk through the Park's trails and swim in Long Pond. We feel that this is in keeping with the purpose of the Park. We are respectful of the environment in everything that we do.

However, we are under the impression that changes in the bill are being contemplated. Specifically, the local Ellsworth American reports that the "willing buyer, willing seller" clause may be removed or changed. We feel that this clause provides the most equitable response to the environmental management problems of one of America's most pristine National Parks. We urge you to support S. 720 as written.

Melvin T. Atherton

Constance L. Howe

Constance L. Howe
(Mrs. Melvin T. Atherton)

CHARLES W. ELIOT 2nd
LANDSCAPE ARCHITECT · PLANNING CONSULTANT
25 RESERVOIR STREET CAMBRIDGE, MASSACHUSETTS 02138
TELEPHONE: KIRKLAND 7-37

COMMUNITY DEVELOPMENT
CITY AND REGIONAL PLANNING

GARDENS AND ESTATES
PARKS AND RECREATION AREAS

1985 JUL -8 PM 3:59

July 6, 1985

Senator Malcolm Wallop
Ch. Sub-Committee on Public Land
United States Senate, National Capital
Washington, D.C. 20510

Dear Senator Wallop -

Since I am unable to attend the Hearing on Senate 720 before your Committee on July 12th this is to ask you to include the enclosed "Statement" in the record of the Hearing - and to bring it to the attention of your fellow-members.

Sincerely

Charles W. Eliot 2nd

cc Sen Mitchell
+ others

CHARLES W. ELIOT II
LANDSCAPE ARCHITECT · PLANNING CONSULTANT
25 RESERVOIR STREET CAMBRIDGE, MASSACHUSETTS 02138
TELEPHONE KIRKLAND 7-3714

COMMUNITY DEVELOPMENT
CITY AND REGIONAL PLANNING

GARDENS AND ESTATES
PARKS AND RECREATION AREAS

Statement for July 12, 1985 Hearing
Senate 720 re Acadia National Park

This is to record my strong opposition to S. 720, and to the proposed "permanent boundary" as shown on the 10 February 1985 "Acadia National Park Boundary Map", as well as to several of the proposed administrative provisions in the bill introduced by Senators Mitchell and Cohen.

My concern with these matters derives from my family's ownership of property at Northeast Harbor since 1880, enjoyment of summers at the "Blessed Isle", and active participation of several generations in projects and programs "to protect and preserve the land and water resources" of the Acadian Archipelago.

My grandfather - Pres. Charles W. Eliot of Harvard - organized the Hancock County Trustees of Public Reservations in 1901 - (chartered in 1903 as a tax-exempt charitable organization to acquire and hold "for free public use" properties of "scenic beauty, historical interest" etc. in Hancock County). The Trustees sought and received gifts of land from generous donors to be held "in trust in perpetuity". In 1912-13 a bill in the State Legislature to rescind the Trustees' Charter and tax-exempt status was blocked, and George B. Dorr and my grandfather persuaded the Wilson Administration to accept gifts of the Trustees' properties to constitute the Sieur de Monts National Monument - 1916, the Lafayette National Park - 1919, and Acadia National Park - 1929.

My personal and professional involvement in these matters goes back to 1928 when I prepared a report on "The Future of Mount Desert Island" (31 pp + Maps) for the Bar Harbor Village Improvement Association. That report included identification of areas significant for their wilderness character and scenic, scientific, and historic features, and recommendations for their inclusion in the National Park. That same year, I lobbied for passage of the Act changing the name of the Park to Acadia National Park and extending its "boundaries" to the whole Acadian Archipelago. I up-dated my recommendations for additions to the Park in 1950 and 1971, and over the past twenty

Years have worked with Park Officials on proposed Master Plans - as a concerned citizen - opposing deletions in violation of Trust and proposing additions To include "whole natural units", etc.

Senate 720.

1. Deletions. Although the stated purpose of S.720 is "To protect and preserve the land and water resources of Acadia National Park", - Sec 2, a, (2) + (3) of S.720 would authorize Deletions from the Park - through (2) Exchanges or (3) Gifts To Towns of Park lands outside of the proposed "permanent boundary" shown on the "Park Boundary Map". These proposed Deletions are ostensibly "to facilitate the Administration of the Park" - meaning? To ease the jobs of Park Officials by eliminating projections and isolated parcels (while acquiring eleven more islands?); or To recoup the real estate Taxes on Additions To the Park (putting the Local interest over the National interest of a National Park). All of these proposed Deletions are in outrageous Violation of Trust! Those properties were given "In Trust in Perpetuity"!

2. Additions must be made To the Park - outside of the proposed "permanent boundary" - To "protect and conserve" Whole Natural Units" - including - for example:- a. The north slope of Acadia Mountain with retention of 3 DMD; b. The west shores of Hodgdon and Seal Cove Ponds; c. Both banks of Otter Creek - west and east of Route 3; d. Valley of Richardson Brook in Bar Harbor; ++. The only authorized additions of fee titles outside of the proposed "permanent boundary" under S 720 are by "exception" in Sec 4 "other than the following eleven islands", and by transfer To the Park of the Coast Guard property at Bear Island Lighthouse - Sec 8. What about all the other islands of the Acadian Archipelago?

Many other Additions - outside of the proposed "Permanent Boundary" on Mt. Desert Island - as proposed in Master Plans and previous reports - including Schooner Head + High Seas (Sec. 5 of S.720), "Gateway To the Park" at the head of Somes Sound, Day Mountain - down To Route 3 and the Champlain Monument, Sargent Point, the valley of Mill Brook ++ should be added.

3. Conservation Easements may be acquired under Sec 3 of S.720 on the islands of Knox County (presumably including Mt. Desert Island), and certainly should be over such areas as the Kebo Valley and Northeast Harbor Golf Clubs; Asticou Terraces and deleted 1 D.M.D, Shores of Echo Lake and Long Pond, Etc. If, in spite of opposition To all proposed deletions, any Park property is deleted, the National Park Service should retain a Conservation Easement over the property to protect the adjoining Park area against uses or development which might be damaging to the Park.

3.

4. Administrative Provisions of Senate 720 need further careful review and extensive revision, - particularly those dealing with acquisition of properties by purchase or eminent domain, reserved rights, etc.; and with the membership, organization and role of the proposed Advisory Committee (Sec. 6). That section reflects the intent of the sponsors of S. 720 to have Local Interests control the future of a National Park - with 10 of the 16 members representing the Towns, and only three each appointed by the Secretary of the Interior and the Governor of Maine. Why no representation of the National conservation organizations?

5. Alternatives. The actual Purpose of S. 720 is not that stated in the bill, but rather to prevent loss of real estate taxes to the Towns by additions to the Park. But a "permanent boundary" for Acadia National Park will not prevent private, tax-exempt conservation agencies from acquiring, holding, etc. areas previously proposed for addition to the Park. As I have repeatedly recommended to Senator Mitchell, there are other and better ways of meeting the problem of loss of taxes - including "payments-in-lieu of taxes" by the Federal Government at fair market values, or assumption by the National Park Service of the costs of maintenance, repair, or improvement on all Town Roads upon which the National Park abuts.

So - This is to ask the Committee holding this Hearing to reject Senate 720, and call for further study and re-writing of the bill.

Charles W. Eliot 2nd

MAINE AUDUBON SOCIETY
Gilsland Farm • 118 Old Route One • Falmouth, Maine 04105 • 781-2330

July 5, 1985

The Honorable Malcolm Wallop
Chairman
Senate Sub-Committee on Public Lands, Reserved
  Waters, and Resource Conservation
Dirksen Office Building, Room 308
U.S. Senate
Washington, D.C. 20510

Dear Senator Wallop:

A healthy, thriving, and adequate Acadia National Park is central not only to the protection of Mount Desert Island's outstanding natural values, but also to the continued development of the island's economy. We believe that the Park should extend its boundaries where necessary to protect natural features, to ensure a high-quality visitor experience, and to protect the area's scenic amenities. Legislation is essential to establish Park Boundaries, but should not attempt to determine "permanent" boundaries since the needs of the Park and the towns are not static. At the same time we believe that the National Park Service must provide financial assistance to Mount Desert Island and the surrounding communities to ensure adequate community services in the towns surrounding the nation's second most-visited park.

Maine Audubon Society, representing 5,700 households, can endorse the legislation before you, Senate 720, if the following changes are made:

1. High Seas and Schooner Head should be within the Park boundary.
2. The Park must be given ample opportunity to exchange lands under jurisdiction of the Secretary which are outside the Park boundaries. Five years is too short a time period after which to require conveyance to the towns in which they are located.

A STATEWIDE ENVIRONMENTAL ORGANIZATION

3. Eminent domain should apply to all parcels within the Park boundary.

4. Construction of a single-family residence on unimproved property should not be defined as compatible with the purposes for which the Park was established.

5. The Secretary should be authorized to acquire conservation easements from a willing seller or by donation on Schoodic Point.

6. The members of the Acadia National Park Advisory Commission should be appointed by the Secretary. The requirement that the Committee must approve the addition of a back country island should be deleted.

7. Lands should be named in the legislation to be studied for possible future addition to the Park, in conjunction with assessment of economic impact to the towns and appropriate mitigation if indicated.

8. Carrying capacity and economic impact studies for the entire Park and Island should be required in order to assure the appropriate balance of use and provision of services. These studies may indicate additional important administrative and boundary changes.

Sincerely,

Charles Hewett
Charles E. Hewett
Executive Director

Jeffrey Thaler
Jeffrey A. Thaler
Staff Attorney
Advocacy Director

cc: Senator George J. Mitchell
Senator William S. Cohen

MAINE COAST HERITAGE TRUST
P.O. BOX 426, NORTHEAST HARBOR, MAINE 04662
(207) 276-5156

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Bruce Jacobson

July 11, 1985

The Honorable Malcolm Wallop
Chairman of Senate Sub-Committee on
Public Lands, Reserved Water, and
Resource Conservation
Dirksen Senate Office Building
Washington, DC 20510

RE: Acadia National Park Boundary Legislation (S.720)

Dear Senator Wallop:

As the second most visited national park in the Country, Acadia is a special resource for the people of the United States. Maine Coast Heritage Trust supports a legislated fee boundary for the Park, however, we cannot fully endorse the legislation as drafted and suggest some changes in the enclosed letter.

Please enter the enclosed letter to Senator Mitchell in the hearing record of July 12, 1985 concerning the Acadia Park Boundary legislation (S.720).

Sincerely,

Bruce Jacobson

Bruce Jacobson

BJ/lb

Enclosure

cc: Harold E. Woodsum, Jr.

ATTENTION: Tony Bevietto

MAINE COAST HERITAGE TRUST
P.O. BOX 426, NORTHEAST HARBOR, MAINE 04662
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EXECUTIVE DIRECTOR
Bruce Jacobson

July 11, 1985

The Honorable George J. Mitchell
United States Senate
Washington, D.C. 20510

RE: SENATE HEARING ON ACADIA PARK BOUNDARY LEGISLATION (S.270)

Dear Senator Mitchell:

Thank you for meeting with me and other representatives of Maine's conservation groups on July 1 to discuss the Acadia Park Boundary legislation. Maine Coast Heritage Trust has had a long-standing interest in the Acadia Boundary issue, particularly as it relates to conservation easements.

The Acadia conservation easement project is recognized nation-wide as an extremely valuable and effective collaborative effort between the Department of the Interior and the private sector. By granting conservation easements, individual landowners with a love for their land are able to ensure wise stewardship of their property beyond their life time. Acadia National Park is able to protect the scenic and natural resources of the Acadian Archipelago without resorting to outright ownership by accepting the responsibility to monitor conservation easements. The towns benefit because the land stays in private hands and on local tax rolls.

Maine Coast Heritage Trust supports the purpose of the legislation (S.270) introduced to you by the U.S. Senate. However, as we discussed, some of the provisions relating to the granting of conservation easements are not in the best long-term interests of the public. Therefore, we propose the following changes in the legislation.

At the informal hearing you held on the draft legislation in Ellsworth last fall, we questioned the advisability of removing the Park's ability to accept conservation easements on the Schoodic Penninsula. The Schoodic Penninsula unit is the only mainland portion of Acadia National Park and it is important that the Park be able to protect scenic views for the Park visitors en route to Park holdings. Therefore, Maine Coast Heritage Trust strongly supports amendment of Section 3(a) to include the Schoodic Penninsula in the geographic area where Acadia National Park may accept conservation easements.

The definition of a conservation easement, Section 3(d), should be changed to reflect the recent enactment of the Uniform Conservation Easement Act in Maine. The words "or a conservation restriction" in line 23, page 10 are no longer contained in the definition as stated in Maine law and should be struck. Also in line 23, "Section 667" has been repealed and should read, "Section 476".

Section 3(e) currently states that "No easeement may be acquired by the Secretary under this section without first consulting with, and providing written justiliciation to, the town in which the land is located and the Acadia National Park Advisory Commission established by Section 6(a) of this Act". During the last fifteen years Maine Coast Heritaage Trust has worked with over one hundred landowners who have granted conservation easements to Acadia National Park. Two provisions in Section 3(e) create serious potential obstacles to the continued granting of conservation easements to Acadia. First, the requirement that the Secretary provide "written justification" regarding the acceptance of each conservation easement is totally unwarranted. The Secretary is bound by the criteria for accepting conservation easements stated in Section 3(c). Also the term "justification" is nebulous; who is to determine what is justified? Second, approval by the National Park Advisory Commission is also unwarranted. It adds a level of bureaucracy that will only hinder the granting of conservation easements between private individuals and the Park. We do feel it is important for each town to know what easements the Park is accepting so that they can plan for future land use, however it is not necessary for the representatives of one town to debate acceptance of conservation easements in another town. The whole approval process as proposed would serve only to discourage private landowners from participating in what to date has been a highly effective alternative to Park land acquisition. Therefore, Maine Coast Heritage Trust suggests that the following words be eliminated on page 11: line 3, "and providing written justification to"; and lines 4, 5, and 6, "and the Acadia National Park Advisory Commission established by Section 6(a) of this Act".

In keeping with the foregoing reference to the Commission's role regarding conservation easments, Section 6(e)(3) should be eliminated (strike lines 13, 14, 15 on page 14). Finally, Maine Coast Heritage Trust supports the recommendation of other conservation groups that the Acadia National Park Advisory Commission members be appointed by the Secretary of the Interior from nominees named by the Governor and the towns.

I regret that I am not able to testify at the Senate hearing regarding the Acadia Bill. Thank you for your efforts on behalf of the second-most-visited Park in the United States.

Sincerely,

Bruce Jacobson

BJ/lb

cc: Mr. Harold E. Woodsum, Jr.
Senator Malcolm Wallop

ATTENTION: Martha Pope

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July 25, 1985

Senator Malcolm Wallop, Chairman
Senate Energy and Natural Resources
Committee
Subcommittee on Public Lands, Reserved
Water and Resource Conservation
SR-206 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The enclosed statement of Paul J. Farr, Chief Administrative Officer, the Jackson Laboratory, Bar Harbor, Maine, is hereby submitted for inclusion in the record of the July 12, 1985, hearings on S. 720, a bill to establish a permanent boundary for the Acadia National Park.

We appreciate the opportunity to submit this statement, and are grateful for your incorporation of it into the record of the Subcommittee's consideration of S. 720.

Sincerely,

Peter F. Gold

Peter F. Gold

Enclosure

STATEMENT OF PAUL J. FARR, CHIEF ADMINISTRATIVE OFFICER, THE JACKSON LABORATORY, BAR HARBOR, MAINE, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION, ON S.720, A BILL TO ESTABLISH A PERMANENT BOUNDARY FOR THE ACADIA NATIONAL PARK

July 12, 1985

Chairman Wallop and members of the Subcommittee:

I am Paul J. Farr, Chief Administrative Officer of the Jackson Laboratory of Bar Harbor, Maine. The Jackson Laboratory is a § 501(c)(3) organization, dedicated to the advancement of biomedical research, recognized by the National Cancer Institute as a Laboratory Cancer Research Center of significant importance, and the owner of tract 55ABH, locally known as "Highseas." We are the largest employer in the town of Bar Harbor, and we consider the Laboratory to be a worthy citizen of Bar Harbor and Mt. Desert Island. While we wholeheartedly support legislation creating a permanent boundary for the Park, we cannot, for reasons that I will explain, support the provisions of S. 720 that specifically deal with our property, Highseas.

As you know, S. 720 would establish for the first time permanent boundaries for the Acadia National Park, the only national park without a Congressionally-designated boundary. The Park at present can only acquire land by donations, a situation that has resulted in a piece-by-piece growth of the Park and its current checkerboard nature. While this mosaic character makes Acadia National Park unique among National parks -- its wild and spectacular scenery exists along side settlements that long predate the Park -- it has also created understandable pressures for permanent boundaries.

The Jackson Laboratory recognizes, as do most of the citizens of Mt. Desert Island, that this bill is the culmination of two decades of meetings and negotiations. The continuing struggle to create permanent Park boundaries is an effort that we support. We also recognize that without the leadership and labors of Senator Mitchell and his able staff we could never have reached this point, the farthest that we have come toward our common goal of permanent boundaries for Acadia National Park.

Highseas comprises 15.8 acres of ocean frontage on Frenchman Bay. The property is vital to the Laboratory's work of basic research, education and animal resources. On the property are a three-story brick mansion, a caretaker's cottage, and a small, but critically important, facility housing several research laboratories and some of [illegible] most valuable research animals. The Georgian colonial style mansion, which is on the National Register of Historic Places, is principally used as a conference center and as lodging for students who use the Laboratory's research facilities.

Subsection 5(a) of S. 720 specifically excludes tract 55ABH, or Highseas, from the boundaries of the Park. However, subsection (c) authorizes the Secretary to condemn a conservation easement by eminent domain if, after consulation with the Acadia National Park Advisory Commission (which would be established by section 6(a) of the bill), the Secretary determines that such an easement is necessary to prevent development or changes in use "which are incompatible with the purposes for which the Park is established." Whether or not a use is incompatible is to be determined by reference to section 2(d) of the bill, which would prevent full utilization of the property for the scientific mission of the Laboratory.

Enactment of S. 720 thus freezes the current use of the Highseas property, thereby placing the Jackson Laboratory in an impossible position.

The Jackson Laboratory received the property in 1950 by a charitable bequest, and the trustees of the Laboratory have a fiduciary obligation to maximize the use of the resources that they administer on behalf of the Laboratory. The trustees have always been concerned that the operation of the Laboratory be in harmony with its surroundings and that any future growth of the Laboratory be guided by environmental considerations. While the Jackson Laboratory supports the Park and this legislative attempt to permanently establish the Park's boundaries, the trustees cannot stand by while potential expansion of the Laboratory's facilities is threatened and the value of its holdings, obtained by charitable gift and bequest, are substantially diminished without compensation.

We believe that the U.S. Park Service realizes the dilemma that confronts the Laboratory, and we have been working with them in an attempt to negotiate a solution that will be satisfactory to all parties concerned. We have explored, for example, the possibility of a swap of all or part of the Highseas property for other park lands that could be developed by the Laboratory, with any shortfall in the value of the lands to be made up by a cash or property transfer. The Laboratory remains open to discuss other ways by which its mission can be continued and the value of its holdings maintained while also satisfying the wishes of those who believe that Highseas is important to the future of Acadia National Park.

Nevertheless, until such time as we can reach agreement with the Park Service, we are compelled to oppose subsections (b) and (c) of section 5 of S. 720.

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July 29, 1985

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public
 Lands, Reserved Water and Resource
 Conservation
Committee on Energy and Natural
 Resources
308 Senate Dirksen Office Building
Washington, D.C. 20510

Re: Supplementary Statement on S. 720

Dear Senator Wallop:

This supplementary statement is submitted for the hearing record on S. 720 on behalf of the Towns of Bar Harbor, Southwest Harbor, Tremont, Trenton, and Frenchboro, Maine ("Towns"), all of which municipalities are vitally affected by legislation to establish a permanent boundary for Acadia National Park. The statement summarizes positions articulated in detail in testimony given by individual Town representatives at the Subcommittee's July 12 hearing, and addresses issues raised at the hearing by other interested parties who would seek to amend S. 720 in one or more respects.

I. INTRODUCTION

S. 720 is the result of literally years of planning, discussion, public meetings, and negotiation by and among the National Park Service, members of the Maine Congressional delegation, and affected communities, residents, and other interested individuals and organizations who care deeply about the future of both the Park and the Maine coastal communities from which the Park has been carved. It is not a perfect bill from the perspective of any of those who support it, including the affected municipalities. Many of its individual provisions were at one time or another strongly opposed by representatives of the Towns, who through years of ongoing discussion, have made concessions to accommodate legitimate Park interests, or the somewhat intangible "national interest" with the very tangible local interests of their citizenry. Similarly, the Park, the National Parks and Conservation Association, and other interested groups have modified their positions over the years in the interest of securing new legislation. As Senator Mitchell pointed out at the hearing, this bill is a compromise, and like all good compromises, no particular interest is completely accommodated.

Nor is this bill a simple bill. Some of its individual provisions, viewed alone, may appear inconsistent with decisions taken by the Subcommittee with respect to other Parks in other parts of the country in recent years. However, viewed as a package, this bill is good legislation, carefully tailored to the peculiar characteristics of this Park; and as with each major unit in the Park System, Acadia is unique in many respects: its geology and topography; its historical development through private donations; and the inter-relationship between the Park and the working coastal communities from which it has gradually been assembled.

This bill accommodates those unique characteristics in a manner which, if in some respects unusual, is nonetheless reasonable. That sufficient consensus has been developed to bring this bill forward after many years of debate underscores a point made by both Senators Cohen and Mitchell at the hearing: many parties have much to gain by the establishment of a permanent boundary for Acadia, and many have much to lose by continued delay. Like the Park and others, the Towns would like to see certain technical refinements made to this bill. At the same time, the Towns wish to re-emphasize their desire to see legislation enacted this year, and their commitment to the major components of the package which this bill's sponsors have thoughtfully put together.

II. ISSUES RAISED BY OTHER WITNESSES

Like the Towns, other witnesses at the hearing expressed dissatisfaction with one or more specific features of S. 720. This again proves that the legislation reflects compromises already made with which no party is completely happy. However, certain witnesses raise more fundamental issues which would undermine the very basis for this bill. Not surprisingly, those interests did not participate in the many long years of negotiation which took place in the Acadia region. Rather, they seek to hold the bill hostage at this late hour to a "wish-list" of demands that were considered and rejected long ago by those most vitally affected, as being incompatible with both the unique characteristics of Acadia, and the spirit of compromise in which this legislation has evolved.

1. Eminent Domain -- Section 2 of the Bill. Some would criticize the legislation for giving the Park Service less than full condemnation powers on all lands within the new boundary. This fails to recognize one of Acadia's most unique features: that the Park was created over a 70-year period with no purchase authority and no involuntary takings, much less unbridled condemnation powers. This bill provides two very different sets of additions to the existing Park. The first set consists of those parcels deemed by the Park, the Towns, and other interested organizations to be those most important to the rounding-out of Acadia, and to vital ecological, recreational, and management objectives. These parcels are specifically designated in Section 2(d)(3), and are subject to condemnation authority to protect against incompatible development.

The second and larger set of potential acquisition parcels are those not deemed essential to the Park, but which would be desirable if they can be voluntarily acquired over an extended period of time. Far from being an unprecedented feature, this second set simply represents a continuation of Acadia's own precedent, namely the opportunity to add valuable, but not indispensable, properties by donation, supplemented by willing seller purchase or exchange power. The current "open-ended" boundary would thus be closed, but without entirely denying the opportunity to individuals who may wish to exchange or contribute a limited list of properties to the Park in the future.

If the Committee is uncomfortable with this two-part approach to future acquisitions, the logical course would be to limit the new boundary to those specific parcels already designated in Section 2(d)(3). While this results in a smaller boundary than S. 720 envisions, it would still protect the most important parcels from adverse use, and probably present a sufficient challenge to the Park to negotiate and manage the gradual absorption of this relatively short list.

To do the converse would subject to condemnation powers the long list of parcels that, realistically, the Park does not want to acquire in the short run, and will not have the funds to acquire for the foreseeable future. As you pointed out at the hearing, this is the most insidious kind of condemnation without compensation, denying the private landowner the use of his land, damaging its market value, eroding the tax base of the communities, and yet never actually taking title to the property. With the huge backlog of previously authorized Park land acquisitions, the increasing pricetag for the backlog, and other demands on the Park System's limited acquisition resources, it is simply bad public policy to draw green lines around an unrealistic wish-list of properties to be "protected" but never acquired.

2. Definition of Incompatible Use -- Section 2(d)(4) and (5). The issue of eminent domain is inextricably linked with the bill's definition of uses permitted those properties subject to it. Some quarrel with this definition, particularly the right to construct one single family residence on currently unimproved property. This is something of a red herring. Acadia is not a new Park being carved out of the pristine wilderness of Alaska. Acadia is historically a blend of Park, working communities, and seasonal residences. Under current law -- which will continue for the indefinite future if legislation is not enacted -- private property owners can do much more than build single family residences, impacting adversely on current Park holdings, and making any future expansion that much more costly.

Land for private use is already in short supply in the Acadia region. Permanent residents of the area are increasingly forced to move off Mt. Desert Island and onto the mainland where land and housing is more affordable. Permitting one new single family residence on a limited number of parcels within a new boundary will not reverse this trend, nor will it lead to an explosion of residential building; it will permit some limited addition to badly needed housing stock, providing some growth in the municipal tax base while at the same time preventing the type of intensive commercial development that would be truly incompatible with the Park. In a region where Park and communities run together in so many ways, it would be unrealistic in the extreme to declare some newfound incompatibility between the Park and private residential use.

The Park Service testified against the incompatible use provision because it would force the Government to wait, and then pay higher prices. The Government apparently prefers the opposite result: force the private landowner to wait, probably forever, and permit the Government to pay nothing.

3. Conservation Easements -- Section 3. As with the fee boundary, the bill's provisions on conservation easements afford some continued opportunity to the Park to acquire new easements outside the boundary. Again, so as to close something that is now totally open-ended, Section 3 sets forth criteria which would govern the purchase or acceptance of easements, and requires review by and justification to an Advisory Commission. Historically, Acadia has been able to acquire conservation easements without any municipal consultation, and without justifying the importance of the easement to Park purposes. In some cases, these donations result in significant tax loss to the Federal Treasury, and potential diminution of taxable value to local municipalities. The Towns see no reason for such privately-motivated transactions to continue without some burden on the Park to justify each one on its particular facts.

4. Acquisition of Islands -- Section 4. S. 720 authorizes the Secretary to acquire in fee all or part of ten islands offshore of the main island of Mt. Desert. Like other features of the bill, this list of ten was not pulled out of thin air, but rather represents years of discussion. Some who did not participate in that process would now expand this list dramatically. The Towns unanimously oppose any such expansion. Fishing and lobstering remain important in the region, particularly to some of the smaller communities. Expansion of the Park presence on offshore islands could seriously interfere with this traditional feature of the local economy by increasing boat traffic in the area. This bill prudently avoids conferring Park jurisdiction over coastal waters, and similarly should not encourage more Park activity on and around the offshore islands.

In addition to the ten named islands, Section 4 would permit acquisition of one additional unnamed island for the purpose of backpack primitive camping. The Towns do not support this feature of the bill, and believe that if those who advocate the "unnamed island" have a particular one in mind, they should come forward so it can be debated on its merits. If they do not, despite over ten years of discussion on this point, then there is no compelling reason to deal with it in this bill. One of the major purposes of S. 720 is a permanent boundary; leaving it open-ended with respect to one more island simply undercuts it. There is also a real question as to the Park's ability to manage camping offshore. Finally, the State of Maine with its vast Northern timberlands provides tremendous opportunities for those who are serious about back-country camping. Whatever the Acadia region is, primitive it is not. The Towns see no national interest in having Acadia compete with the true back-country which Maine already affords its visitors.

5. Schooner Head and High Seas -- Section 5. Most of the testimony on Schooner Head, including a photographic presentation, generated more heat than light on this particular group of properties. It is important to understand the full history of this parcel, not just its recent history. Schooner Head has not been undeveloped land at any time in this century. Only in 1947, after a tremendous fire swept the area, was it free of a significant number of residences. In fact, had S. 720 been adopted sixty years ago, with Schooner Head within its boundary, the parcel would be just as developed as it is today. Photographs taken before the turn of the century show not only significant development on the Head, including a golf course, but reveal the existence of a very large building on the promontory which, by the architectural standards of today, was no less objectionable than the large house recently constructed there. It is important to note that this recent construction, which has become the "whipping boy" in this debate, was built not by Maine

residents, but by a Washington attorney. To use that recent construction as the justification for forcing the properties of long-time residents into the boundary is unfair and unnecessary. Again, this is not the pristine wilderness of Alaska, and Schooner Head is not the only area in Acadia where Park lands and private residences are in close proximity. Large summer estates dot the region, and it is simply inconceivable that the Park would ever have the funds to acquire and bulldoze them so as to create "undeveloped" property.

It is true, of course, that not all of the properties destroyed in the 1947 fire were rebuilt immediately, and that fifteen years ago, Schooner Head was relatively less developed than it is today. In hindsight, perhaps the National Park Foundation should have purchased the significant piece of Schooner Head which was offered to it in the early 1970's by its then-owner, still a resident of Schooner Head. The Foundation, for whatever reason, chose not to do so. Now, the owner who voluntarily offered his land at that time and was turned down, would be among those penalized if Schooner Head is dealt with other than as this bill would provide in its current form.

The Towns also support the position taken by the Jackson Laboratory that "High Seas" should be outside the boundary and available for the legitimate uses of this internationally-renowned medical research facility. Again, unless the Park Service intends to create undeveloped land by bulldozing the current improvements -- which are on the National Historic Register -- there is nothing incompatible about its continued co-existence with the Park.

6. Deletions of Land Outside the Boundary to Municipalities -- Section 2(a)(3), (b) and (c). Some witnesses object to transferring property to local municipalities without compensation. Again, this is part of a delicate compromise. The Towns agreed to a larger permanent boundary, with more potential acquisitions and thus lost tax base, only because they believed that deletions of land outside the boundary would in fact be made and returned to the tax base, and in return for the conveyance of certain properties important to municipal use (a sewage treatment plant, a new solid waste transfer station, and two other special situations). Beyond those designated parcels, the Secretary need not transfer any properties to the Towns without consideration if he can use them, within a reasonable time (5 years) in exchange for acquisitions. But if he cannot or worse, chooses not to, then they could remain indefinitely outside the boundary, but in Park hands and off municipal tax rolls. As drafted, the bill simply forces the Park to use them in exchange, or alternatively, allow the municipalities, not the Park, to reap the benefits of inaction.

Nor should the Committee be unduly concerned about revenue loss. The value of properties remaining unused after five years will be small in relation to the total cost of this legislation. Furthermore, all of these properties were acquired without cost to the Park, while municipalities have lost tax revenues associated with them for years.

7. Payment to Municipalities -- Section 7. The Towns understand the Chairman's concern with this feature of the legislation. However, they hope that similarly the Chairman understands the importance of this provision to the Towns, and in considering the bill will take the following points into account:

(a) As discussed above, the Towns have gradually lost tax base in a series of private transactions which the Congress authorized in the broadest sense, but with respect to which there was no real evaluation of the merits of each particular private donation. This is not just a monetary loss, but a loss of opportunity to permanent residents, who frequently have been forced to move off Mt. Desert onto the mainland, then commute back to the communities in which in some cases, their families have lived for generations.

(b) As the Committee is well aware, National Parks often strain municipal services. Acadia now attracts four million visitors a year, mostly in the summer. These visitors require fire and police protection, road maintenance, sewage treatment, water, and solid waste management, not just in the Park but in the Towns. Towns are forced to have facilities designed to meet these "peak" loads, far exceeding the investment that would be necessary to provide adequate service to permanent residents or even the four million visitors if spread equally throughout the year. Certainly these same visitors contribute to the economic well being of at least some of the Towns, through expenditures for food and lodging, but they do so for only a short summer season, while some municipal facilities that serve them must be maintained year-round. The smaller communities which depend more heavily on a traditional resource-based economy should not be forced into intensive commercial development as the only means of supporting the services Park visitors demand. Indeed, it is within the Park's long-range interest to financially support the Towns in dealing with sewage, solid waste, and roads, enabling them to preserve their traditional character -- a major feature of Acadia -- rather than forcing them to become simply tourist accommodations for the Park.

(c) Federal payments-in-lieu-of-taxes ("PILOT") are so grossly unfair to Acadia as to justify special statutory redress through some other mechanism. Based on acreage, PILOT produces virtually no compensation for very small Parks. But visitors, not acres, demand drinking water, sewage and solid waste treatment, and road maintenance. And Acadia has one hundred times more visitors than it has acres. As the attached chart demonstrates, PILOT's maximum $0.75/acre payment produces less compensation per visitor in Acadia than any of the other heavily visited National Parks, by factors ranging from 7 to 100. For each visitor to Acadia, the affected Towns are eligible for maximum PILOT payments of approximately seven-tenths of a penny ($0.007). The comparable maximum for Yellowstone National Park is $0.75. Even at PILOT's minimum of $0.10/acre, and disregarding all receipt-sharing revenues, Towns in the Yellowstone area would be eligible for $0.10/visitor, or 14 times that in Acadia.

None of the other most heavily visited National Parks is similarly afflicted by Acadia's high ratio of visitation to acreage. The maximum PILOT payment in Glacier is $0.39/visitor; in Grand Canyon, $0.40/visitor; in Olympic, $0.25/visitor; and in Great Smokey, $0.046/visitor. The average maximum PILOT payment in the ten most heavily visited parks is $0.23/visitor, or thirty-three (33) times the comparable figure for Acadia.

(d) S. 720 is not precedential in this respect. In a number of prior bills, the Committees have recognized unique problems and came up with unique solutions. The Redwoods legislation is a good example. While the impacts on local jurisdictions were different than those at issue here, they were real, and Congress authorized special impact assistance to deal with them. The impact expenditure authorized by S. 720 is a relatively small part of the ultimate cost of this legislation, is a one time only payment, and will be dedicated to services badly needed in the Acadia region for the benefit of visitors as much, if not more than residents.

(e) In its testimony against the payment provision, the Park Service cited the fact that several of the Towns had budget surpluses. Perhaps the Park does not understand that small Maine communities do not have the luxury of being fiscally irresponsible; query whether the Park would support this provision if the Towns were instead running sizeable deficits every year.

III. TECHNICAL AMENDMENTS SUPPORTED BY THE TOWNS

While minor compared to the benefits of S. 720 as introduced, certain modest revisions could further improve the bill. Following is a summary justification for those amendments which the Towns recommend:

1. The map referenced in Section 1 of the bill has one parcel erroneously designated for addition (69 ABH). It has been

the Towns' understanding for sometime that the Park intended to remove this tract from the map. It was originally identified as a possible site for a visitor information center. That center has since been constructed on Federal land on Thompson Island, thus eliminating the need for the other parcel.

2. Section 2(c) designates a specific tract among those slated for deletion as the site for a new solid waste transfer station that would be shared by the municipalities and the Park. The Towns remain as committed as ever to developing a solid waste transfer station in conjunction with the Park, but believe that the specific parcel designated may not be the most advantageous from either an environmental or cost perspective. This matter is under continuing review, and the Towns recommend that Section 2(c) be amended so as to give the Park further discretion with respect to which of the properties slated for deletion is most suited for the transfer station site.

3. The Secretary's authority to acquire an additional unnamed island, as discussed in paragraph II.4 above, should be deleted from Section 4 of the bill.

4. Section 5 should be clarified, after consultation with the Jackson Laboratory, to permit appropriate future use of the High Seas property consistent with its status on the National Register of Historic Places.

5. Section 6(e)(2) should be amended to clarify that any and all matters relevant to land acquisition should be brought before the Advisory Commission. While the Towns agree that the intentions of the drafters are clear, this amendment would simply underscore the importance to the overall scheme of the new Advisory Commission. As previously discussed, since the inception of Acadia, the Park and private landowners, often wealthy seasonal residents, have engaged in a series of private transactions, many of immense benefit to the Park, but without proper consultation or consideration given to the interests of the affected local communities. It is time to bring these dealings out into the "sunshine," and the Advisory Commission established by Section 6 of the bill will do that admirably.

Had the Advisory Commission been in existence in recent years, it is virtually inconceivable that, in a privately negotiated transaction for the benefit of a wealthy landowner, the Park would have cut off access by the Otter Creek fishermen to the water. This access had been enjoyed by generations of fishermen, and should be promptly restored, by specific amendment in this bill if necessary.

6. Section 7(a) of the bill should be amended to add the Towns of Frenchboro, Swans Island, and the Cranberry Isles, to

the list of affected communities eligible for disbursement of the one time impact payment. These Towns are affected by the Park's presence, and their omission from the bill as introduced was inadvertent.

7. While this may not require amendment to the bill, Committee Report language should emphasize the importance to all concerned of having this new boundary become a real boundary on the ground as well as on the map. There are apparently a number of ambiguities with respect to exactly where on the ground both the existing boundary, and the proposed new boundary, will lie, and it should be incumbent upon the Park Service to undertake, as promptly as feasible, adequate survey work to establish these boundaries with certainty.

There is similar ambiguity with respect to the status of at least two roads which run through Park property, and which are quite important to Town residents. Either the bill or its legislative history should clarify the respective rights and obligations of the Towns and the Park with respect to both the Seal Cove Road, which connects Tremont and Southwest Harbor, and the Breakneck Road in Bar Harbor.

Mr. Chairman, the Towns appreciate the opportunity to submit this supplementary statement for your consideration and that of other members of the Committee. We look forward to working with you and your staff in the development of this legislation, and would be pleased to address any additional questions and concerns which you may have.

Respectfully submitted,

Robert J. Saner II
Counsel to the Towns of
Bar Harbor, Southwest Harbor,
Tremont, Trenton, and Frenchboro,
Maine

RJS/bp
cc: Subcommittee Members and Staff
The Honorable William S. Cohen
The Honorable George J. Mitchell
The Honorable John R. McKernan, Jr.
The Honorable Olympia J. Snowe
National Park Service
National Parks and Conservation
Association

ATTACHMENT

MAXIMUM PAYMENT IN LIEU OF TAXES (P.I.L.O.T.) FOR THE 10 MOST VISITED U.S. NATIONAL PARKS

PARK	NUMBER OF VISITORS	ACREAGE	MAXIMUM P.I.L.O.T. at $0.75 per acre	MAXIMUM P.I.L.O.T. Per Visitor
Great Smokey Mts. National Park	8,508,000	520,000	$390,000	$0.046
Acadia National Park	3,735,000	35,000	$26,000	$0.007
Olympic National Park	2,759,000	904,000	$678,000	$0.246
Yosemite National Park	2,738,000	759,000	$569,000	$0.208
Rocky Mt. National Park	2,231,000	263,000	$197,000	$0.088
Yellowstone National Park	2,222,000	2,220,000	$1,665,000	$0.749
Grand Canyon National Park	2,174,000	1,177,000	$883,000	$0.406
Hawaii Volcanoes National Park	2,001,000	217,000	$163,000	$0.082
Glacier National Park	1,947,000	1,013,000	$760,000	$0.390
Shenandoah National Park	1,869,000	194,000	$145,000	$0.078

Source - United States Department of Interior Data for 1984

TOWN OF SOUTHWEST HARBOR
vacationing
industry fishing
1905

Southwest Harbor, Maine 04679
Telephone 244-5404

1985 JUL 29 AM 10: 34

July 26, 1985

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands,
Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
308 Senate Dirksen Office Building
Washington, D. C. 20510

Re: Supplementary Statement on S. 720

Dear Senator Wallop:

After having the opportunity to review written testimony submitted by the National Park Service and a variety of interested parties we would take this opportunity to respond to several key issues they raised relative to S. 720.

(1) Permanent Boundary - The need for a permanent boundary for Acadia National Park appears to be the single issue on which everyone agrees; however, the area which should be included within the boundary still appears to be an outstanding issue. The necessity of a larger boundary has never been adequately documented despite repeated requests to the Park Service for a study to address the carrying capacity of this Park. The requested report has never been undertaken and without the documented need we feel any enlargement based on a perceived need would be not only ill-advised but a very costly venture.

(2) Eminent Domain - Acadia was formed by outright gifts of land from concerned individuals intent on preserving the inheritant scenic and environmental aspects of our area; the protection of this area in the name of the "National Interest" hadn't been forseen by either the environmental lobby or government officials. To suggest the philosphy which established the Park initially no longer exists is erroneous, for example the reconstruction of the Jordan Pond House and dormitory were funded in large part thru private donations. The selection of specified parcels within the Park boundary which eminent

domain powers could be utilized required the Park to establish a priority system of purchases, which we feel should be required rather than the usual shot-gun approach used in other areas. We agree the eminent domain provision may be different in many respects from the norm, however we would like someone to identify another federal park formed in the same manner as Acadia.

(3) High Seas and Schooner Head - Both parcels are located in Bar Harbor; Southwest Harbor would lend our support to exclude these areas from the boundary. The National Park Service has had ample opportunity to acquire these properties, thru a variety of methods, and failed to do so before they became developed. While many have suggested, thru development the visitor experience has been destroyed perhaps the visitor is actually offered a glimpse of the past when hugh summer estates dotted our landscape.

(4) Advisory Committee - This is a key issue for the communities sharing Mount Desert Island with the National Park Service. The concept suggested in testimony before your committee that only parochial interests would be protected is BULL. Part of the communication problem which has existed in the past is due to the "locals" not being consulted prior to an acquisition by the Park Service. In many respects the support which is needed could be generated at the local level were we informed of a proposed acquisition. Unless the advisory committee has a "purpose" the problems we'll encounter in the future will be history repeating itself.

(5) Island Issue - The concept of adding yet another 11th unnamed island to the Park boundary raises several questions which are left unanswered. As ridiculous as it may sound Mount Desert Island could fall within this provision, we're off-shore, primitive camping could be enjoyed in certain areas etc., this type of ambiguity even after twenty (20) years of planning would make one wonder just what is in store. We would urge leaving the island issue to the ten named and if a need arises, plans could be presented to the Advisory Committee once the need and management plan have been documented.

The Honorable Malcolm Wallop

Re: Supplementary Statement on S. 720

July 26, 1985

(6) Grants - We feel the impact of Park holdings warrant the increased payment schedule which has been proposed. The inappropriate use of Park money, as suggested by the Park Service in their testimoney for fire and police services as well as local road maintenance is short-sighted. Many of the roads connecting various sections of the Park are locally maintained and the cost of providing a highway system is costly. If these roads weren't locally maintained the cost to the Park Service would far exceed the one time payment requested. The same would hold true for fire, ambulance and police services.

In closing the bill before you is the result of untold hours on negotations by all parties affected and we feel it should be supported.

Sincerely yours,

Michael K Knowles

Michael K. Knowles
Town Manager

MKK/er

C.C. Mr. Robert Saner II

Mr. Robert Stanwood

JOHN S. BAER, P.E.
SCHOONER HEAD, BAR HARBOR, MAINE 04609

July 24, 1985

Honorable Malcom Wallop
Chairman, Senate Sub-committee on Public Lands,
Reserved Water and Resource Conservation
Room 308 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Acadia National Park Master Plan...
specifically Schooner Head

Dear Senator Wallop:

Since my wife and I are indirectly responsible for the "visual pollution" of this area, we feel it appropriate to present some factual information for your perusal.

Schooner Head has been a residential area since the early eighteen hundreds. In 1893, the Beehive Aqueduct Water Co. was incorporated with some 21 shareholders (including George Dorr) to provide water to the numerous homes on Schooner Head. There is a community graveyard, dating back to the Civil War era, and at one time a squash court and seven hole golf course were on the property. The 1904 tax map shows 13 separate taxable properties.

The 1947 fire decimated the area and all of the land was put up for sale. Around 1955 Ralph Dyer purchased several acres and in 1961 Jack Warren acquired 21½ acres. In 1968 my wife and I purchased 40 acres and two years later we bought the last remaining 2½ acres.

In August of 1975 we sold 9 acres to the National Park Foundation for $45,000, an amount less than the market value. This sale was suggested by Keith Miller who was Superintendent of the park at that time. The strongly implied incentive was that "if the park can acquire these 9 acres they would not include the rest of our land in the new master plan."

However, the 1976 master plan placed Schooner Head within the park boundary, and so we again approached the National Park Foundation. We offered the entire 21 acre Schooner Head sub-division to them for $350,000. This was $240,000 below the appaised value. John Bryant, of the Foundation, said that they did not have the funds. Because of our inherent tax liability, we suggested that title be passed then, and that we would wait for our money until Congress passed the plan and appropriated money to the park. We also offered to wave interest payments even though we would have been taxed on imputed interest based upon the transaction. This offer was rejected, and no counter offer made. Similar offers were made by Jack Warren and Ben Gaylord. They also were rejected.

Despite comments from environmentalists, Schooner Head is less developed now than it was seventy years ago. The limitations imposed by Senator Mitchell's bill, together with existing deed restrictions, effectively prevent further development without loss of tax revenue to the town.

Now is not the time for the park to acquire Schooner Head. That time has been overlooked and passed by. It is indefensible to even consider paying some five million dollars for property that was recently offered and refused for $350,000.

Sincerely yours,

John S. Baer

cc:

Senator William Cohen
Senator George Mitchell
Congresswoman Olympia Snowe
Congressman Bruce Vento

Nolan R. Gimpel
B13 Burnside Estate, 9 South Bay Road
Repulse Bay, Hong Kong

July 24. 1985

Honorable Malcom Wallop
Chairman, Senate Sub-committee on Public Lands,
Reserved Water and Resource Conservation
Room 308 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Acadia National Park Master Plan...
specifically Schooner Head

Dear Senator Wallop and Sub-committee members:

Living abroad I always look forward to returning to the pleasures and freedoms of the United States. More specifically I enjoy returning to where I have vacationed for over twenty years and where my wife's family has lived for more than two centuries.

Upon my return to Mount Desert Island this week, I was dismayed to learn of the renewed controversy over the Permanent Boundary of Acadia National Park as it relates to the Schooner Head properties. I have been following the communication between various Schooner Head residents (Messrs. Baer, Burt, Dyer, etc.), Senator Mitchell, Mr. Ron Wrye, etc. and felt that a reasonable compromise had finally been established and a plan for peaceful and harmonious coexistance was about to be implemented.

Given the fact that the property in question has never been part of the park, that existing development is in fact less than previous development and that the use of the land is compatible with the Park Service, I feel this eleventh hour controversy is a disruptive and nonproductive tactic by special interest groups who have failed to take advantage of opportunities to acquire this land in the past.

Further, given the fact that this property is virtually fully developed at no detriment to the Park or its visitors, I do not understand how the tremendous cost which would be associated with park acquisition could even be a serious consideration.

As previously pointed out by other Schooner Head residents, we are willing to endure a loss in property value by voluntarily diluting our rights as property owners to insure compatible use of our land. This can be done because we wish to see it's beauty preserved as much as the Federal Government and the National Park Service.

Page 2 - July 24, 1985

You have already heard the arguments of the town of Bar Harbor and I will not restate them here but I would submit that one of the attractions to Mount Desert Island and Acadia National Park is the very fact that our visitors can (and do) enjoy the interspersement of the park and the local communities. The idea that a park must be contiguous land is neither correct nor beneficial to the general public. Remember, no matter how large or contiguous a park is someone will live next to it and this is not a bad thing.

As an American I can not fathom the perversion of power proposed by some opponents of this legislation. As a taxpayer I can not condone the expense of acquisition of these developed lands which would represent less than 1/10 of one percent of the existing park land and give no incremental benefit to the park. I also can not condone the time and expense required to negotiate this issue for yet another twenty years.

It is difficult if not impossible for a small group of citizens to combat a professional lobbying effort and therefore we must have faith in our elected officials to represent our interests and to excercise good judgement and logic.

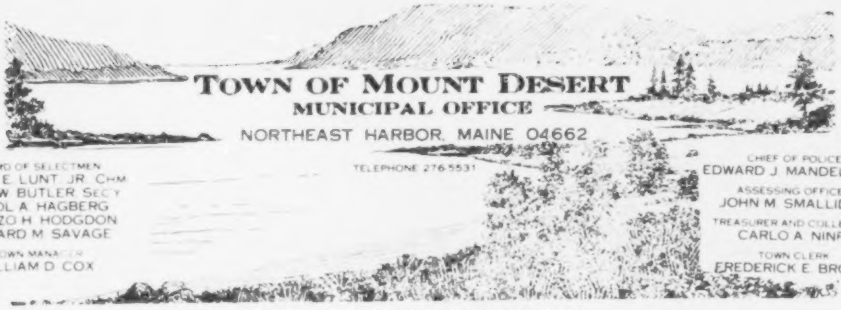
I would implore you to pass Senator Mitchell's bill in it's present state.

Very Truly Yours,

Nolan R. Gimpel

cc:

Senator William Cohen
Senator George Mitchell
Congresswoman Olympia Snowe
Congressman Bruce Vento



TOWN OF MOUNT DESERT
MUNICIPAL OFFICE
NORTHEAST HARBOR, MAINE 04662
TELEPHONE 276-5531

BOARD OF SELECTMEN
DURLIN E. LUNT, JR. CHM
JOHN W. BUTLER SEC'Y
KAROL A. HAGBERG
ALONZO H. HODGDON
RICHARD M. SAVAGE
TOWN MANAGER
WILLIAM D. COX

CHIEF OF POLICE
EDWARD J. MANDELL, JR
ASSESSING OFFICER
JOHN M. SMALLIDGE
TREASURER AND COLLECTOR
CARLO A. NINFI
TOWN CLERK
FREDERICK E. BROWN

ADDRESS OFFICIAL COMMUNICATIONS TO NORTHEAST HARBOR

August 1, 1985

U. S. Senate
Senate Subcommittee on Public Lands
Reserved Water and Resource Conservation
Washington, D.C. 20510
Attn: Tony Bevinetto

Dear Mr. Bevinetto:

Mr. Stephen Smith of the Village of Otter Creek in the Town of Mount Desert, Maine has requested that I send the enclosed information. It is his wish that the enclosed material be made a part of the officical record for Senate Bill 720 relative to the Acadia National Park Boundary Act of 1985 held on July 12, 1985.

Thank you for your assistance in this matter.

Very truly yours,

William D. Cox

William D. Cox,
Town Manager

United States Department of the Interior
NATIONAL PARK SERVICE
Acadia National Park
P.O. Box 177
Bar Harbor, Maine 04609

IN REPLY REFER TO

February 22, 1985

W3415(ACAD)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RESTRICTED DELIVERY

Mr. Stephen S. Smith
Otter Creek
Mount Desert, Maine 04660

Dear Mr. Smith:

Your impounded boat in the Otter Cove area of Acadia National Park has been lifted over the barrier stones. You had mentioned in your letter to Mr. Anthony R. Conte, Regional Solicitor for the U.S. Department of the Interior, that you were unable to remove the boat. It has been moved approximately 50 yards north and placed in a National Park Service owned parking area. If you wish to claim the boat, please remove it by March 11, 1985. If you have not removed the boat by that date, the National Park Service will initiate action pursuant to Title 41, Code of Federal Regulations, to dispose of the boat.

Sincerely,

Ronald N Wrye

Ronald N. Wrye
Superintendent

cc:
Regional Solicitor, NAR

SENATE OF MARYLAND
ANNAPOLIS MARYLAND 21401-1991

FRANK J. KOMENDA
26TH LEGISLATIVE DISTRICT
PRINCE GEORGE'S COUNTY
MEMBER
BUDGET AND TAXATION COMMITTEE
CHAIRMAN
SUBCOMMITTEE ON PUBLIC SAFETY
TRANSPORTATION ECONOMIC DEVELOPMENT
AND NATURAL RESOURCES

ANNAPOLIS OFFICE:
SUITE 313
SENATE OFFICE BUILDING
ANNAPOLIS MARYLAND 21401-1991
DIRECT FROM
PRINCE GEORGE'S COUNTY 858 3092
ANNAPOLIS 841 3092
PRINCE GEORGE'S COUNTY OFFICE:
6505 OLD BRANCH AVENUE
SUITE 101
CAMP SPRINGS MARYLAND 20748
PHONE 449 3500

July 17, 1985

The Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands,
Reserved Water and Resource Conservation
308 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

I am a member of the Senate of Maryland and I represent the 26th Legislative District which encompasses Southern Prince George's County, including the property which is the subject of legislation before you.

The purpose of S. 1208 is to transfer a certain federal parcel, located along the Potomac River adjacent to the Woodrow Wilson Bridge, to the Maryland-National Capital Park and Planning Commission for the development of a waterfront park and related recreational facilities. This type of facility, providing direct access to the Potomac River is sorely needed in Southern Prince George's County.

The Park and Planning Commission owns two adjacent and complimentary park facilities in the immediate vicinity of the subject property. They are the Historic Oxon Hill Manor site, adjacent to Oxon Hill Road, and the Betty Blume Neighborhood Park. In fact, it is my understanding that the owner of the contiguous private property, Mr. James Lewis, has proposed a trade with the Park and Planning Commission which will provide that once the federal transfer is accomplished, the MNCPPC will own park lands reaching from Oxon Hill Road and the Manor site down to the river's edge. This, I can assure you, would provide one of the most magnificent park facilities in the State, if not the Country.

Prince George's County encompasses approximately 20 miles of Potomac River shoreline within its boundaries. However, only three public access points exist within that 20 mile boundary. A comparison of the current population of the County which is approximately 675 thousand to the number of public access points which currently exist, provides a clear and profound indication of the need for the type of facility which would be provided as a result of the enactment of this legislation.

S. 1208 also provides that the MNCPPC will grant access across its property to the owner of the adjacent private property. The owner of the adjacent property, Mr. James Lewis, has appeared before your Subcommittee. He has proposed a sizeable mixed-use development for his property which has come to be known as the Bay of Americas project.

I have been actively monitoring this project beginning with the filing of the initial zoning process and the final zoning approval in 1983. I want to emphasize to the Subcommittee that a majority of my constituents overwhelmingly support this project.

Since taking charge of the project late last year, Mr. Lewis has taken steps to ensure that this development is of the highest quality and extremely sensitive to the environmental, geographic and demographic aspects of the property itself and surrounding areas. He has retained the Country's foremost architects for the actual design of the project and has made efforts to work very closely with both government officials at all levels as well as diverse community groups.

As an elected official to the State Legislature and as a concerned citizen and resident of Southern Prince George's County, I will continue to monitor and actively support the progress of this project at both the local and state levels. I am confident that the public park planned by the MNCPPC, combined with the proposed adjacent residential community and related development, will be a credit not only to Prince George's County and our State but to our Nation's Capital as well.

I urge favorable consideration by the Subcommittee in support of S. 1208.

Sincerely,

Frank J. Komenda

Frank J. Komenda
Senator

FJK:ks
cc: Sen. C. McC. Mathias
Sen. P. S. Sarbanes
Mr. J. Lewis
Ms. M. Kaufmann

HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401-1991

FREDERICK C. RUMMAGE
CHAIRMAN
ECONOMIC MATTERS COMMITTEE
26TH LEGISLATIVE DISTRICT
PRINCE GEORGE'S COUNTY

HOME ADDRESS
6300 GEORGE WASHINGTON DRIVE
CAMP SPRINGS, MARYLAND 20748
HOME 899-RUMM
BUS 736-2700
ANNAPOLIS AREA 841-3519
WASHINGTON AREA 858-3519

July 19, 1985

Honorable Malcolm Wallop, Chairman
Subcommittee on Public Lands, Reserved
Water and Resource Conservation
206 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to express my strong support for S.1208, a Bill to transfer federal land, which lies within my legislative district, to the Maryland National Capital Park and Planning Commission. This legislation, if enacted, would provide not only badly needed public access to the Potomac River, but would also permit access to a substantial residential development on adjacent private property. That development, which has come to be known as the "Bay of the Americas" project, is of particular importance to both Prince George's County and the State of Maryland.

This development had its genesis several years ago when the original owner filed a zoning application with the Prince George's County Council for a sizeable commercial, retail and residential development on land in an area of the Potomac River known as Smoot Bay. The application was supported by the majority of elected officials at the state and local level including myself, a majority of my constituents and five out of six neighborhood civic associations representing homeowners in the area immediately adjacent to the project and the federal parcel. The Bay of the Americas project was approved by a unanimous vote of the Prince George's County Council.

Late last year, Mr. Jim Lewis of J.T.L. Enterprises, Inc., took charge of the Bay of the Americas project. He immediately retained the country's foremost architects, involved state and local officials at every level as well as diverse community groups, and entered into negotiations with the National Capital Planning Commission, including the National Park Service, regarding the federal interests that may be affected by his proposed development. As a result of those negotiations with NCPC, Mr. Lewis agreed to a number of restrictions on his private residential shoreline development in exchange for federal support for the legislation which is before the Subcommittee. As you know, this agreement has been incorporated by reference into S.1208.

As Chairman of the Economic Matters Committee, I, along with my colleague, Senator Frank Komenda and indeed a majority of the Prince George's County delegation to the Maryland General Assembly, have been working very hard at all levels in support of this project.

The passage of S.1208 is crucial to the development of not only a beautiful public waterfront park for the citizens of southern Prince George's County, and indeed the Nation's Capital, but also to the development of the magnificant new project which, we are convinced, will become the future of Prince George's County. We therefore urge the Chairman and members of the Subcommittee in the strongest terms to support S.1208 and move as quickly as possible for its passage.

If you have any questions, or if I can provide additional information to the Subcommittee, please do not hesitate to contact me.

I respectfully request that this letter be incorporated as a part of the record of the July 12, 1985 hearing on S.1208.

Sincerely,

Frederick C. Rummage

FCR/baa

To the Chairman and Members
Subcommittee for Public Lands, Reserved Waters
and Resource Conservation

My name is Jeanne Ulrich, and I wish to express the concerns of the Naval Resource Lab Triathlon Club.

This bill would deprive us of our training grounds. The parkland it would take from us contains the only clean, safe, and legal beaches open to the public in the Washington area. Local triathletes do their open water training here. They have hosted a variety of athletic events, from the Cub Scout Regatta of Pack 705, to our exciting local biathlon, the Oxon Hill Amphibion. These beaches have passed water quality tests conducted by the Prince Georges County Health Dept, and serve the public as a popular place to swim, waterski, canoe, and boardsail, without fear of hepatitis or jellyfish.

In addition, this land transfer would take from the National Park Service, land that is critically needed for the completion of the Potomac Heritage Bicycle Trail. The National Park Service's stewardship of our public lands has contributed immensely to the quality of life here, Their commuter bike trails enable local amateur triathletes, who hold down jobs, to compete with and even beat the professionals.

It is no secret that this bill is the work of Mr. James Burch. His plans to build a monstrous shopping center on the tidal wetlands of the Chesapeake Bay's major tributary, and even out over the Potomac River itself, violate the Chesapeake Bay Critical Areas Commission's restrictions on development within 1000 feet of tidal waters. They also violate Section 9-201 of the Maryland Annotated Code for Natural Resources, which prohibits the reclaiming or developing of "fast" or underwater land lost prior to Jan 1,1972.

If you have the interests of your constituents, your country, the Chesapeake Bay, and the Potomac River at heart, you will not permit this plunder of our parkland.

Thank you.

Jeanne Ulrich
NRL Triathlon Club
Code 2811
Naval Research Lab
4555 Overlook Ave
Washington D.C. 20375

E. Neville Hunter
523 Roundtable Drive
Ft. Washington, Maryland 20744

July 25, 1985

The Honorable Malcolm Wallop, Chairman
Subcommittee on Public Lands, Reserved
Water and Resource Conservation
308 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

My name is E. Neville Hunter and I am a resident of Fort Washington, Maryland in southern Prince George's County. I am writing to you today regarding S.1208 which is currently before your Subcommittee. I had very much wished to testify at the hearing on this bill which was held on July 12, 1985. Unfortunately, I was in California on business that week.

I did however, have the opportunity to testify on HR 3003 which, as you may know, is a Bill almost identical to S.1208 which has been introduced in the House of Representatives by Congressman Hoyer and Congresswoman Holt. That hearing was held on July 18, 1985 before the Subcommittee on National Parks and Recreation. I have taken the liberty of enclosing a copy of my testimony on HR 3003, and would respectfully request that it, along with a copy of this letter, be made a part of the hearing record of the July 12, 1985 hearing before your Subcommittee.

As my testimony indicates, I represent the South Potomac Citizens' Association which is comprised of approximately eight hundred homeowners in southern Prince George's County. Our neighborhoods are located near the federal parcel which is the subject of S.1208. Our Association also very strongly supports the proposed development to be located on private property adjacent to the federal parcel affected by S.1208, and which is also the subject of a Memorandum of Understanding that has been incorporated into this legislation.

Speaking as a representative of the South Potomac Citzens' Association, I want to emphasize to the Chairman and the Subcommittee that there is strong and broad based support, not only in southern Prince George's County, but throughout the State, both for the transfer of the federal property which is proposed in S.1208, as well as for the private development on the adjacent property.

I very much hope that you can honor my request that this statement be made a part of the record. If you have any questions, or if I can provide additional information, I may be reached at 486-0505.

Thank you very much for your consideration.

Sincerely,

E. N. Hunter

E. Neville Hunter

Enclosure

ENH/baa

Statement

of

Mr. Neville Hunter

Before the

Subcommittee on National Parks and Recreation

Committee on Interior and Insular Affairs

United States House of Representatives

H.R. 3003

July 18, 1985

Good morning, my name is Neville Hunter, and I am a resident of Fort Washington, Maryland in southern Prince George's County. I am here today as a homeowner of more than sixteen years in a neighborhood which will be affected by the land transfer proposed in H.R. 3003, as well as a representative of the South Potomac Citizens Association, which is comprised of approximately 800 homeowners in southern Prince George's County.

As I understand this legislation, its purposes are twofold: It would convey federal property to the Maryland-National Capital Park and Planning Commission for the purpose of creating both a park and waterfront recreational facilities. It also makes provision for the granting of access to the development on the adjacent private property.

Public access to the Potomac River waterfront in Prince George's County is severely limited. Those facilities and locations that do exist are extremely overcrowded, particularly on weekends. In my view, the initial concept presented by the Park and Planning Commission for its waterfront facilities is a good one. Such a park would also complement other Maryland-National Capital Park and Planning Commission facilities in the area, namely Betty Blume Park and the Oxon Hill Manor. The park which would be provided as a result of the federal transfer will not solve our river access problems, however it is an excellent first step.

I also support the second aspect of H.R. 3003, the granting of access for the adjacent private development. I have been following the progress of this project, which has come to be known as the Bay of the Americas, for several years. In fact, I testified as a representative of the South Potomac Citizens Association in support of the development before the Zoning Hearing Examiner and the Prince George's County Council. The need, particularly in my area of the County, for this type of project is great; the reasons are many. I would, however, like to give you an example that strikes close to home for me.

I am Vice-President for business development for VEDA Inc., a professional technical services firm providing engineering analysis and acquisition management. Our corporate offices are located in Crystal City, Virginia and house more than 250 professional employees - - primarily engineers, systems designers, management analysts and computer operators

- - generally what one would call "high-tech" workers. Approximately five of these employees live in Prince George's County.

Prince George's County should be the ideal and logical residential choice for my colleagues as it is only 12 miles from Crystal City. Many of them would rather live 40 miles away in neighborhoods where housing is more expensive, than live in more convenient Prince George's County where housing is generally less expensive. What is the curse that plagues Prince George's County?

Several years ago, The Washington Post referred to our County as the "ugly sister". Quite frankly, this sort of thing bothers me. I am tired of Prince George's County being at the bottom of the ladder.

I feel that the Bay of the Americas project would help pull Prince George's County out of its rut. This development would be compatible with nature with its vast hiker/biker trails, parks and fantastic shoreline. It would also, at the same time, offer us an alternative to downtown restaurants, entertainment, parks, and shopping. Furthermore, I believe the innovative architectural design of this project would lure a large number of potential residents to explore housing options in Prince George's County; the type of housing that typically is not thought to be found here.

In summary, I would like to say that it is my strong belief that the project, as presented to me, combined with the public facilities to be provided as a result of H.R. 3003 would give Prince George's County a more positive image.

For all these reasons, I urge the Subcommittee to support H.R. 3003.